

In the Application of:

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| General Board of Church and Society of the United Methodist Church; | Case No. 16211 |
| H. Nevins and Sherry K. Mones; | Case No. 16218 |
| Inez Cushard Family Trust; | Case No. 16212 |
| Barry Zigas and Jodie Levin-Epstein; | Case No. 16219 |
| Trustees for Harvard University; | Case No. 16213 |
| Providence Hospital, DePaul Foundation | Case No. 16214 |

Hearing Room 220 South
441 Fourth Street, N.W.
Washington, D.C. 20001

Wednesday,
March 19, 1997

The above-entitled matter came on for hearing, pursuant to notice, at 9:30 a.m.

BEFORE:

SUSAN MORGAN HINTON, Chairperson
HERBERT M. FRANKLIN
SHEILA CROSS REID
LAURA M. RICHARDS

STAFF PRESENT:

MADELIENE H. DOBBINS, Director
REGINALD C. LYONS, Secretary
TRACEY WITTEN ROSE, Assistant Secretary

ALSO PRESENT:

ALBERTO BASTIDA, Office of Planning
BEVERLY BAILEY, Office of Planning

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P-R-O-C-E-E-D-I-N-G-S

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10:29 a.m.

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CHAIRPERSON HINTON: Good morning everybody. We

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apologize for the late starting of this, but because of the

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weather and the snow and a lot of other reasons, we're sort of

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starting a little slowly today.

7

This hearing will please come to order. This is

8

the March 19th hearing of the Board of Zoning Adjustment of

9

the District of Columbia. I'm Susan Morgan Hinton. I'm the

10

Chairperson. Joining me today are the vice-chair, Laura

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Richards, Sheila Cross Reid, and Herbert Franklin,

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representing the Zoning Commission.

13

Copies of today's hearing agenda are available

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to you. They are located to my right near the door. All

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persons planning to testify either in favor or in opposition,

16

are to fill out two witness cards. These cards are located on

17

the end of the table in front of us. Upon coming forward to

18

speak to the Board, please give both cards to the reporter who

19

is sitting to my right.

20

The order of procedure for special exceptions

21

and variance cases will be as follows: Statement of witnesses

22

of the applicant; government reports including the Office of

23

Planning, the Department of Public Works, the ANC; persons and

24

parties in support; persons or parties in opposition; closing

25

remarks by the applicant.

26

The order of procedure -- we don't have to do

1 that. We have no appeals. Cross examination of witnesses is
2 permitted for persons or parties with a direct interest in the
3 case. The record will be closed at the conclusion of each
4 case except for any materials specifically requested by the
5 Board. Staff will specify at the end of the hearing, exactly
6 what is expected.

7 The decision of the Board in contested cases
8 must be based exclusively on the public record. In order to
9 avoid any appearance to the contrary, the Board requests that
10 persons not engage the Board members in conversation.

11 At this time, the Board will consider any
12 preliminary matters. Preliminary matters are those which
13 relate to whether a case will or should be heard today, such
14 as requests for postponements, continuances or withdrawals, or
15 any proper or adequate notice of the hearing. If you are not
16 prepared to go forward with a case today or if you believe the
17 Board should not proceed, now is the time to raise such a
18 matter.

19 Does the staff have any preliminary matters?

20 MR. LYONS: The staff has none, Madam Chair.

21 CHAIRPERSON HINTON: We are going to change the
22 agenda a little bit and have the case that's scheduled third,
23 that will go second. The case that is scheduled second will
24 go third. We are ready to proceed with the first case.

25 MR. LYONS: The first case is Application 16211
26 of the General Board of Church and Society of the United

1 Methodist Church, pursuant to 11 DCMR 3107.2 and 3108.1, for a
2 variance to allow an addition to an existing nonconforming
3 structure that now exceeds the floor area ratio limitation,
4 will increase the nonconformity and create a new nonconforming
5 open court under paragraph 2001.3(b) and (c), a variance from
6 the open court requirements of Subsection 536.1, a variance
7 from the allowable floor area ratio requirement of Subsection
8 1203, and a special exception under paragraph 1203.2(b) for
9 mechanical penthouse restrictions for an addition to an
10 existing nonconforming structure in a CAP/SP-2 District at
11 premises 100 Maryland Avenue, N.E., Square 726, Lot 11.

12 All persons wishing to testify in this
13 application, please rise to take the oath.

14 Whereupon, the witnesses were sworn.)

15 CHAIRPERSON HINTON: Before we start the case,
16 I'd like to find out is there anyone in the audience in either
17 support or opposition of the case? We have none and we have
18 no opposition submitted for the record? There was no
19 opposition in my file.

20 MR. LYONS: I don't think so.

21 CHAIRPERSON HINTON: You don't recall. Okay.

22 In cases where there's no opposition, sometimes
23 we go ahead with an expedited hearing which means that you
24 have submitted a lot of information to the record and all the
25 Board members have read that information. We ask you to give
26 a relatively brief presentation of just the pertinent facts.

1 MR. KEYS: Good morning, Madam Chair, Members of
2 the Board. My name is George Keys. I am here to represent a
3 longtime and favorite client, the General Board of Church and
4 Society of the United Methodist Church.

5 This case is one that initially surprised me
6 when it came. I thought that it was both the easiest case
7 that I had seen and then in some respects, the most difficult
8 case that I had seen. Easy in the sense that very little in
9 this case is discretionary with the applicant. The decision
10 to modernize created certain imperatives that simply drove
11 this case. Difficult because I was astounded at the number of
12 variances and special exception that was involved and provide
13 the very simple relief that the applicant really needs, which
14 is to conform this building to meet its evolving requirements
15 and needs, and to bring this building into a contemporary and
16 modern form.

17 This building has received a great deal of
18 attention, both because of its visibility on Capitol Hill,
19 next to the Supreme Court, quite visible from the Capitol.
20 And as a result of its location, it has received the attention
21 of other agencies. You are aware that the Commission of Fine
22 Arts has already reviewed and approved these plans. The
23 architect of the Capitol has had opportunity to comment, and I
24 believe a letter from Mr. Inson is in the record in this case.
25 The Historic Preservation Review Board has completed a
26 consensual review and ANC-6A has been involved with two

1 appearances by the applicant before it.

2 One matter that the Board should be aware of
3 that I don't think has made it to the record yet, the
4 applicant did appear before the Capitol Hill Restoration
5 Society and they did send a letter which I believe arrived
6 prior to the hearing, recommending to the Board approval of
7 this application.

8 MR. LYONS: The Board, if I might add, do have
9 copies of that before them.

10 MR. KEYS: Thank you.

11 I would ask the Board, as we present our case --
12 and we will do so briefly -- consider whether this case is one
13 that could be subject to a bench decision. I think that the
14 elements of the case are compelling and it would certainly
15 assist the applicant in moving this development process
16 forward to obtain its approvals as soon as possible.

17 I've indicated that the variances that are
18 requested are really mandatory, given the desire to modernize.
19 There are elements of this application that do represent
20 discretion on the part of the applicant. In one case, though
21 the penthouse will have to be enlarged on this structure,
22 we've made a decision with the advice of the architect to try
23 to make the penthouse a more attractive facade. Though the
24 penthouse was featured in the Clint Eastwood movie "Absolute
25 Power", we feel obligated to make it look a little better and
26 I think the architect of the Capitol would agree with that.

1 The other element of discretion involved in this
2 application is the request to deal with a very unsightly and
3 awkward space that would be left once we create this enclosed
4 stairway. We have a suggestion for how we could avoid the
5 problems we can foresee with that awkward space. I think the
6 architect can address our resolution of that.

7 I have with me at the table, the associate
8 general secretary for the General Board of Church and Society,
9 Ms. Martha S. Cline, and she has a short statement from the
10 organization to the Board.

11 MS. CLINE: Thank you.

12 I will keep my comments brief in light of your
13 request and appreciate the chance to add a few more comments
14 into the record, since this building is a very important
15 building to my organization and to the United Methodist
16 Church. We are the original owners of the building, our
17 predecessor agencies through time, and it is a very important
18 place of witness and mission for us as a denomination.

19 When we were looking at the structure,
20 evaluating its condition, what to do to see it into the future
21 we considered several options, one of which was selling it and
22 relocating our agency. We looked at renovating both buildings
23 that are 100 and 110 Maryland Avenue and renovating the said
24 structure at 100. Through the extensive evaluation that we
25 did, it was clear that renovating the said building was the
26 best choice to promote our mission and be able to fulfill what

1 we're there for in our presence across the street from the
2 Capitol.

3 We are excited about that because the building
4 has not been renovated since it was originally built in 1923.
5 So, that means we have office spaces that are not conducive to
6 office work. Three floors of the building were built to be
7 apartments and they're now 100 percent office use in the
8 building, and that's not very conducive to office work to be
9 in what used to be apartments. We have a very antiquated
10 heating system. Our electric wiring, plumbing -- I mean,
11 virtually everything, all of the major building systems need
12 to be renewed. We are beneficiaries of very good maintenance
13 in the past, but we are on borrowed time with our building
14 systems. And we additionally look forward
15 to adding life safety features which we have almost none of in
16 the building: sprinklering and the monitored fire alarm
17 system, for instance, and to be able to be fully ADA compliant
18 since that was also a key issue that our agency worked on,
19 that we could now do that with the building.

20 CHAIRPERSON HINTON: Thank you.

21 MR. KEYS: Thank you, Ms. Cline.

22 I'd like to ask the architect to come forward.
23 Our architect is Eric Colbert of Eric Colbert & Associates. I
24 think he can focus quickly on the architectural elements of
25 the existing building and how that, in order to accommodate
26 the modernization needs, what that implied as far as new

1 construction for the property.

2 CHAIRPERSON HINTON: Okay.

3 MR. KEYS: Mr. Colbert?

4 MR. COLBERT: Good morning, Madam Chairperson
5 and Members of the Board. My name is Eric Colbert of Colbert
6 & Associates Architects and I'm the project architect for this
7 development.

8 This is a photograph that I think is very
9 helpful to understand the nature of our Board of Zoning
10 Adjustment issues. You can see here, and this is a larger
11 version of a photograph that you have in the packet that was
12 submitted, shows window air conditioning units which is how
13 they currently cool the building. As you can imagine, this is
14 a huge problem, trying to run a modern office building that
15 way, for two reasons. One is, these units stay in all year
16 round so you get a lot of energy leaking around there. Then
17 also, you can see the staining that's caused on the wonderful
18 stone by these. So, not only are they causing a real energy
19 problem, but they're also actually helping to destroy the
20 building. The other thing that the water damage is doing is
21 it's ruining the windows which need replacing anyway.

22 So, the main objective here is to install a
23 central air conditioning system. In order to do that, we need
24 to have a cooling tower. And this is also a good photograph
25 to look at because this is actually taken by me standing
26 across the street on the lawn of the Supreme Court. The way

1 we've designed the penthouse, this is the existing penthouse
2 which is actually higher than the relatively modest additions
3 that we plan to put on. We worked carefully with the engineer
4 to come up with a cooling tower that's as low a profile as we
5 feel is practical, something that is normally made to
6 accommodate that.

7 This is an elevation showing the proposed
8 development. We're going to put in all new windows and we
9 will be matching the existing profile of the windows, and then
10 cleaning up the stone, and basically restoring the building to
11 its original, beautiful appearance.

12 MR. KEYS: Eric, before we get away from that
13 picture that you just showed, could you identify those red
14 structures on the roof line and explain whether they'll be
15 there at the end of the renovation or not?

16 MR. COLBERT: These are roof vans and to my
17 knowledge, they will probably not exist after the renovation.
18 The other thing that Mr. Keys was mentioning is the fact that
19 even though this penthouse is not visible, for the most part,
20 we still will be cladding it with a nice material. It's
21 currently brick and we intend to cover it with a stone to
22 match the existing building.

23 This is the view facing the Supreme Court and
24 then on the other side -- this is also in your packet. This
25 is the edge of the Capitol grounds, but this is a similarly
26 important shot from the other visible street facade because,

1 again, you can see that the penthouse is not very visible. As
2 a matter of fact, an interesting comparison is to see what's
3 on this building and our addition will just extend a small
4 distance from that and be lower. So that, actually, from both
5 angles that I showed you on the photograph, it will not be
6 visible.

7 These are the proposed elevations. Essentially,
8 we're bringing the building back to its original appearance
9 and then installing the new windows that will be historically
10 correct.

11 The penthouse for the cooling tower was one
12 issue with regard to the zoning. The other most important
13 thing, in my opinion, had to do with a building code
14 requirement. That had to do with the fact that currently, the
15 building only has one enclosed fire exit and that's in this
16 location. There is an existing fire escape in this location
17 where we're planning to install a new stair. That's the main
18 reason for the increase in the floor area ratio, which is
19 relatively modest, going up from 37,000 to 38,000 square feet.
20 Because the existing fire escape does not count in the FAR
21 calculations, by putting an enclosed stairway in there to
22 comply with building code regulations, we are increasing the
23 floor area ratio. However, the actual amount of built
24 structure isn't really increasing significantly. The new
25 stair is a little bit bigger than the fire escape that was
26 there because it complies with the dimensions of an enclosed

1 stair as opposed to a fire escape, which is a little bit
2 smaller. But the fact is, there already is an exit in this
3 area.

4 So, those are the two major issues, from my
5 perspective, in terms of zoning relief. This is a typical
6 floor plan. We would be gutting the building, as Martha
7 mentioned. The original construction had apartments on
8 several floors. It hasn't been used that way and the
9 certificate of occupancy doesn't show apartments, but because
10 of the original design we're showing a new core here that will
11 comply with Americans with Disabilities Act. This is the new
12 stairway that will allow for the second -- of egress.

13 On the first floor, there is a one-story
14 addition existing which is a conference room in the back. And
15 so, what we're doing here is, this is the proposed new
16 stairway and then there's an awkward space that's created
17 between the stairway and the one floor auditorium. We're
18 proposing to enclose that and create a little kitchenette area
19 that will help serve this --

20 MR. KEYS: Eric, if I could stop you there just
21 to help orient the Board. We have submitted in our
22 application, this photograph which is identified as number six
23 in the application showing the rear of the structure. If you
24 could perhaps describe the elements that you're speaking of
25 now in terms of the location of the new enclosed fire stair
26 and use this picture as a reference point, just to identify

1 for the Board where this niche is. And as you speak about the
2 one-story auditorium, if you make reference to it, it might
3 help them.

4 CHAIRPERSON HINTON: And maybe I could add a
5 little bit here. I think that what would be most helpful for
6 the Board would be if you would take the exact zoning relief
7 that you need and show us where that is, item by item, and
8 then explain how you meet the test that you need to meet to
9 get a variance, okay?

10 MR. COLBERT: Okay.

11 CHAIRPERSON HINTON: We have read the record and
12 I think we understand the nature of the proposal. But if you
13 would just sort of go through those in order very, very
14 quickly?

15 MR. KEYS: All right. Well, let's start with
16 the stairwell --

17 CHAIRPERSON HINTON: Can we start with the first
18 one here, "variance to allow an addition to an existing
19 nonconforming structure"? The addition is because you're
20 adding --

21 MR. COLBERT: Yes, because --

22 CHAIRPERSON HINTON: -- enclosed stairs that are
23 necessary for your fire access?

24 MR. COLBERT: That's correct. You can see in
25 this photograph that this is a fire escape.

26 CHAIRPERSON HINTON: Right.

1 MR. COLBERT: And that's the second means of
2 egress currently. That doesn't comply with current building
3 code regulations. So, essentially, what we're doing is we're
4 removing this and then in its place, we're putting a real fire
5 stair that's enclosed with a rated enclosure, and that's this
6 element here.

7 CHAIRPERSON HINTON: And because the fire stairs
8 count towards your FAR --

9 MR. COLBERT: Right, and the fire escape does
10 not.

11 CHAIRPERSON HINTON: -- your FAR is increasing?
12 That's right, okay.

13 MR. COLBERT: So, that would be one relief.

14 CHAIRPERSON HINTON: Where is the new
15 nonconforming open court?

16 MR. COLBERT: Conforming -- pardon?

17 CHAIRPERSON HINTON: We have variance relief
18 that will create a new nonconforming open court.

19 MR. KEYS: In this case, Madam Chair, the court
20 that we're speaking of is the area between -- you can see it
21 in the same picture -- the rear of the building and that
22 addition that was erected in 1925.
23 That court --

24 CHAIRPERSON HINTON: So, since you're enclosing
25 it, it won't be a court.

26 MR. KEYS: That is correct. But the fire escape

1 narrows that court and it's already a nonconforming court.

2 That is why the additional relief was necessary --

3 CHAIRPERSON HINTON: Okay.

4 MR. KEYS: -- with respect to that.

5 CHAIRPERSON HINTON: And when you're done, there
6 won't be a court at all?

7 MR. KEYS: That's correct.

8 CHAIRPERSON HINTON: Okay. Okay.

9 A variance from the allowable floor area ratio
10 requirement, and I think that deals with the penthouse --

11 MR. COLBERT: Yes.

12 CHAIRPERSON HINTON: -- and also from the
13 mechanical penthouse restrictions. Would you deal with those?

14 MR. COLBERT: Yes. That goes back to the issue
15 of in order to install a contemporary heating and air
16 conditioning system throughout the space, it is necessary to
17 install a cooling tower on the roof. This is First Street and
18 then this is Maryland Avenue. The Capitol is over here. The
19 Supreme Court is here. So, our intention was to install the
20 new penthouse in the most -- set back as far as possible.

21 Also, there's an existing elevator penthouse, so we're
22 connecting to that. However, it doesn't comply in the sense
23 that the zoning requirements stipulate that a penthouse has to
24 be set back at a 45 degree angle from the edge of the
25 property. But we feel that by keeping it back to the back as
26 far as possible, it will be the least visible addition to the

1 existing penthouse.

2 MR. KEYS: Mr. Colbert, the existing penthouse,
3 is it set back --

4 MR. COLBERT: Yes.

5 MR. KEYS: -- consistent with the zoning
6 regulations?

7 MR. COLBERT: That's correct -- I mean, no. The
8 existing penthouse does not comply because it is not set back
9 at a 45 degree angle.

10 MR. KEYS: And the height of the existing
11 penthouse is what?

12 MR. COLBERT: It's approximately I would say 18
13 feet, but I'm not sure about that.

14 The height of the existing penthouse is 12 feet,
15 nine inches.

16 MR. KEYS: And what will be the height of the
17 remodeled or the new penthouse structure that you propose?

18 MR. COLBERT: That would be ten feet, nine
19 inches.

20 MR. KEYS: So, in effect, you're actually
21 lowering the height of this structure? It will still not be a
22 conforming height, but you are reducing the bulk of the
23 penthouse, the height of the penthouse?

24 MR. COLBERT: Right.

25 CHAIRPERSON HINTON: Which zoning reg requires
26 the setback to be at a 45 degree angle?

1 MR. KEYS: That's a regulation that would
2 require that the penthouse be set back from all portions of
3 the building roof, equivalent to the height of the penthouse.
4 That would be Regulation 411.11 that contained those and
5 1203.2B.

6 CHAIRPERSON HINTON: We're looking at the
7 Regulation 1203.2B which I believe is the regulation that
8 applies here.

9 MR. COLBERT: That's correct.

10 CHAIRPERSON HINTON: And what that actually says
11 is provided that the housing is set back from all lot lines of
12 the lot upon which the building is located. I believe your
13 penthouse is set back at least 12 feet from the lot lines,
14 isn't it?

15 MR. COLBERT: That's correct.

16 CHAIRPERSON HINTON: Okay, so you don't have a
17 setback problem. You do have a height problem because this
18 says it shall not exceed ten feet and I believe your proposed
19 penthouse is how high?

20 MR. COLBERT: Ten, nine.

21 CHAIRPERSON HINTON: Ten feet, nine inches. So,
22 it's a variance of nine inches, is that right?

23 MR. COLBERT: Yes.

24 CHAIRPERSON HINTON: Okay. So, we've covered
25 what the relief is needed for. The other thing you need to
26 talk about is how you meet the test for zoning relief for a

1 variance, the three-pronged test.

2 MR. KEYS: Well, yes. I think that's something
3 that I would address --

4 CHAIRPERSON HINTON: Terrific.

5 MR. KEYS: -- once the testimony is done.

6 CHAIRPERSON HINTON: Okay.

7 MR. KEYS: I still think we have not spoken to
8 the issue of the ground floor addition.

9 CHAIRPERSON HINTON: Well, I thought it was
10 clear that the ground floor addition is going to enclose what
11 would otherwise be a nonconforming court and it's going to be
12 used as a kitchen?

13 MR. KEYS: That's correct.

14 CHAIRPERSON HINTON: Okay.

15 MR. COLBERT: Thank you very much.

16 MR. KEYS: At this point, I should add that we
17 do have a representative of the developer here. If there are
18 any questions that the Board may have that would go to the
19 development process or the sequencing and the timing of this
20 process, I'd be happy to have Mr. Holiman offer that
21 information to you if any of the Board members require it.

22 CHAIRPERSON HINTON: Great. We'll see where our
23 questions are.

24 MR. KEYS: All right.

25 CHAIRPERSON HINTON: Okay, thank you.

26 Do you want to address the test for the

1 variance?

2 MR. KEYS: Yes, I would like to deal with the
3 variance test.

4 MR. BASTIDA: Excuse me, Madam Chairperson. On
5 the penthouse, it's not a variance; it's a special exception
6 from the setback requirements.

7 CHAIRPERSON HINTON: Well, I have a --

8 MR. BASTIDA: I mean from the height.

9 CHAIRPERSON HINTON: I have a question about
10 that. Why is that exactly?

11 MR. BASTIDA: Special exception?

12 CHAIRPERSON HINTON: Yes.

13 MR. BASTIDA: Because under the regulations,
14 it's treated as a special exception.

15 CHAIRPERSON HINTON: Well, I went through the
16 special exception regulations with the chart that lists things
17 that can be listed there and I didn't find it. So, maybe you
18 can point it out to me.

19 MR. BASTIDA: I will try.

20 CHAIRPERSON HINTON: Okay. Why don't you look
21 at that and we'll go ahead.

22 MR. KEYS: I think what happens is that if you
23 look at 1203.2B, you see a reference back to 411.

24 CHAIRPERSON HINTON: I do see that.

25 MR. KEYS: And when we get back to 411, I think
26 411.11 creates power in the Board to authorize a deviation

1 from the standards in 1203.2.

2 CHAIRPERSON HINTON: Well, I think --

3 MR. KEYS: -- and I think it's that that the
4 zoning administrator has deemed to be the special exception
5 standard exactly.

6 CHAIRPERSON HINTON: Right. I don't see any
7 reference to 1203.2 in 411.11. If you read the height
8 requirements in 411, they allow the height of a penthouse to
9 be -- it can be as high as it is set back from the roof.
10 There is no ten foot limit in 411. So, the ten foot limit is
11 only found in 1203.2B. So, I don't see how that can come
12 under the special exception.

13 Nevertheless, I feel we can go ahead with it. I
14 just want to be sure that we actually are dealing with the
15 relief you need, which I think is a variance and not a special
16 exception.

17 MR. KEYS: Well, if that is your interpretation,
18 then we have to address four variances, not three.

19 CHAIRPERSON HINTON: Yes, right.

20 MR. KEYS: I think that they all can be resolved
21 using the variance standard which would require that we
22 establish a condition that's inherent in the property as being
23 the unique source of our difficulty.

24 In this case, we are dealing with a building
25 that was erected in 1923 which was before the adoption of the
26 zoning regulations. This building is nonconforming in several

1 respects. It already exceeds the FAR that's allowed for in
2 the CAP/SP-2 District. The building already exceeds the
3 height of structures that would be allowed. And what that
4 does, it means that any addition to this building creates a
5 need for a variance because under the CAP standards in
6 2001.3C, we can't add to a nonconforming structure.

7 The fire escape is an essential for this
8 building and that is driven by the physical nature of the
9 structure. The practical difficulty arises from being unable
10 to locate -- you would have to gut a significant portion of
11 the interior of the building to locate the stairway on the
12 inside of the structure. Because of the location of the
13 stairway, in the interior portion of the lot away from public
14 view, we felt that that type of modification, that type of
15 variance would be the least intrusive on the zone scheme. I
16 think certainly acceptable to the major neighboring uses who
17 are really concerned about the site lines from their
18 properties. In fact, a good portion of the balance of the
19 triangle of land on which the building is located is occupied
20 and owned by the General Board of Church and Society. So,
21 this new addition really is contained and is not exposed to
22 public view.

23 The same analysis works for the penthouse. If
24 you accept the need for modernization, the compulsion is to
25 have a sufficient above-roof line space for the cooling tower,
26 for emergency generators. All of these items arise simply from

1 the fact that this building is a nonconforming structure.

2 I think that given the test for the variance,
3 given the elements that derive from the testimony of Martha
4 Cline and from Eric Colbert's testimony, that we've
5 established the basic entitlement for variance relief. Madam
6 Chair, I don't know if either you or the zoning administrator
7 is correct in establishing that as a special exception, but I
8 assume that if we can meet the variance test, that a special
9 exception is a lesser standard. If we can meet that with
10 respect to the penthouse that we should be able to get relief
11 under either standard.

12 CHAIRPERSON HINTON: Yes, and we'll try to
13 figure that out before the end of the hearing.

14 MR. KEYS: Thank you very much.

15 I think that's all we're going to have at this
16 time. I would like to reserve a few minutes after Mr.
17 Bastida's report to offer something in addition.

18 CHAIRPERSON HINTON: In your closing remarks?

19 MR. KEYS: Yes.

20 CHAIRPERSON HINTON: Very good.

21 Are there any questions from Board members?

22 ALL: No, no.

23 CHAIRPERSON HINTON: No, very good.

24 Why don't we move to the report of the Office of
25 Planning?

26 MR. BASTIDA: Madam Chairperson, Members of the

1 Board, for the record, my name is Alberto Bastida with the DC
2 Office of Planning.

3 The Office of Planning submits its report and
4 has determined that, in fact, the applicant has a practical
5 difficulty because of the shape of the building, the shape of
6 the site, the time that the building was built -- it was in
7 1923. The -- 1958, the Zoning Administration made the
8 building nonconforming.

9 Also, in order for the building to be renovated,
10 it has to meet all of the requirements of the building code
11 and zoning regulations of the District of Columbia. That
12 triggered the building of another enclosed fire stair that, in
13 fact, increases slightly the FAR of the structure which is
14 nonconforming, and also creates a new nonconforming open court
15 because of the layout. It is really a very technical aspect
16 that the Zoning Administrator has determined because of the
17 angle and the distance between the new fire stair to the
18 assembly hall or auditorium, as it is called by the church.
19 Even though the previous nonconforming core is enclosed in
20 accordance, it doesn't have an enclosed court, it creates a
21 new nonconforming court and that requires, triggers a variance
22 because of the need to provide and meet the requirements of
23 the building code and regulations.

24 Regarding the penthouse -- and I'm glad that you
25 made me go back and look at these. If you read 1203.2, it
26 says that it shall not exceed ten feet because it shall not

1 exceed the height of the District in which it is permitted.
2 But this is in SP-2, which the maximum permitted height is 90
3 feet. The penthouse on the building is way below the 90
4 feet. That's what this is a special exception and is not a
5 variance. That's how the Zoning Administration has
6 historically reviewed that.

7 CHAIRPERSON HINTON: Could you go over that
8 again?

9 MR. BASTIDA: Sure. The building height
10 permitted is 90 feet. That means that the penthouse can go to
11 100 feet under these regulations, but it can not exceed 100
12 feet. We are not close to that and that's why this is a
13 special exception and not a variance.

14 You see, it says "house for mechanical equipment
15 or a stairway or a -- penthouse may be erected to a height in
16 excess of that authorized in the district in which it is
17 located" which is 90 feet. The idea was when the regulations
18 were enacted, is to provide that the penthouse could rise
19 above the maximum height of the building to which it is
20 serving. In this instance, the penthouse is within the
21 permitted maximum height for that district.

22 CHAIRPERSON HINTON: I agree. But the last
23 sentence says "in any case." It starts with "in any case."

24 MR. BASTIDA: But it's preceded by "in excess of
25 that authorized in the district." So, I think that the first
26 sentence rules that it is up to 90 feet without any variance.

1 CHAIRPERSON HINTON: Well, and I don't disagree
2 with you that it could be up to 90 feet. What I do disagree
3 with is that it can be more than ten feet above the roof.

4 MR. BASTIDA: That's how --

5 CHAIRPERSON HINTON: Were this roof at 90 feet,
6 then it could be -- were this roof at 80 feet, it could be to
7 90 feet.

8 MR. BASTIDA: That is how historically the
9 Zoning Administrator has interpreted the zoning regulations
10 and has said that if it permits, let's say 60 feet and the
11 building is 40 feet, the penthouse could rise 20 feet.
12 Regardless if it's ten feet or 18.5, depends upon the zoning
13 district.

14 CHAIRPERSON HINTON: And I understand that when
15 we're looking at Section 411 because 411 does not have a
16 height limit on a penthouse above a roof. It ties the height
17 of the penthouse only to the setback from the buildings. So,
18 I agree with that interpretation in 411. But I don't agree
19 with it in 1203.2. And I'm not sure if you're talking about
20 it has historically been interpreted in 1203.2 to mean that
21 because in 1203.2, it has this extra sentence. It says "in
22 any case", which says to me in any case, no matter what, a
23 roof structure shall not exceed ten feet in height above the
24 roof upon which it's located.

25 MR. BASTIDA: Yes. I see the legal problem that
26 the wording presents. I am going by the historic

1 interpretation of the Zoning Administrator has been permitted

2 --

3 CHAIRPERSON HINTON: Okay, and it's not --

4 right.

5 MR. BASTIDA: -- and this is not unusual. But
6 even to put your doubts aside, even though you would consider
7 that it would be a variance, still the tests -- they meet the
8 tests.

9 CHAIRPERSON HINTON: Absolutely. Well, we'll
10 determine that.

11 MR. BASTIDA: Yes, determine that. I mean, in
12 the Office of Planning's opinion, they still meet the test.
13 We believe --

14 CHAIRPERSON HINTON: Okay.

15 MR. BASTIDA: -- that that extra test is not
16 applicable, but we agree to disagree and that's not any
17 problem.

18 CHAIRPERSON HINTON: Good.

19 MR. BASTIDA: But in the Office of Planning
20 opinion, the applicant meets the practical difficulty issue.
21 The Office of Planning believes that the addition will not
22 create adverse -- impact. In fact, the building faces an
23 existing property that is still owned by the Methodist church
24 and which is an apartment building. It will not be really
25 hardly seen from the public right-of-way.

26 And the Historic Preservation Review Board in

1 which the district -- excuse me, the building is located
2 within the Capitol Hill Historic District beside the CAP
3 overlay. Both the architect of the Capitol and the Historic
4 Preservation Review Board have determined that they will not
5 adversely impact the character of the historic district or the
6 CAP overlay. Accordingly, the Office of Planning believes
7 that the applicant meets all the tests for the granting of
8 this zoning relief. Accordingly, we would recommend approval
9 of this application.

10 CHAIRPERSON HINTON: Okay.

11 MR. BASTIDA: Thank you. That concludes the
12 Office of Planning presentation. If you have any doubts, I
13 will try -- I mean any questions, I will try to -- you have
14 lots of doubts, but if you have any questions on those doubts,
15 I will try to answer them. Thank you.

16 CHAIRPERSON HINTON: Okay. Are there any
17 questions? No questions.

18 I am looking at the first floor plan and I think
19 I see the area that is the new nonconforming court.

20 MR. BASTIDA: These basically -- and it keeps
21 opening, so it comes to a point that the open court becomes in
22 compliance.

23 CHAIRPERSON HINTON: Right.

24 MR. BASTIDA: But there's a part narrow next to
25 the building --

26 CHAIRPERSON HINTON: Yes.

1 MR. BASTIDA: -- and it's from the new staircase
2 in a northerly direction to the -- I want to call it assembly
3 hall. I don't know why. Maybe because we're talking about a
4 church, but it's not. It's to the conference room.

5 CHAIRPERSON HINTON: Okay.

6 MR. BASTIDA: And it comes to a point that then,
7 it becomes in compliance. And it actually is not a court
8 anymore.

9 CHAIRPERSON HINTON: Right. And the only way to
10 not have this nonconforming court is to make a bigger addition
11 --

12 MR. BASTIDA: That is correct.

13 CHAIRPERSON HINTON: -- with the plans. Okay --
14 other questions.

15 We'll move to the ANC report. I see nothing
16 from the ANC in the file.

17 MS. RICHARDS: I didn't find anything.

18 CHAIRPERSON HINTON: You didn't either.

19 MR. KEYS: No, we've had no communication from
20 the ANC. As I said, the applicant appeared before the ANC on
21 two occasions in May of this year and presented these plans.
22 There seemed to be concurrence with those plans. We're aware
23 of no opposition.

24 CHAIRPERSON HINTON: Okay. But they didn't take
25 a formal vote?

26 MR. KEYS: Not to my understanding.

1 CHAIRPERSON HINTON: Okay. Very good.

2 MR. KEYS: For the Board, this is Reed Holiman
3 from Stout & Teague, which is the developer in this case.
4 Reed made the presentation to the ANC.

5 Reed, would you report on that?

6 MR. HOLIMAN: Sure.

7 We actually presented our project to the ANC on
8 two occasions. One was to their general body and then the
9 second was at their special committee that deals with
10 development matters. They did take a vote on the project and
11 approved it unanimously.

12 CHAIRPERSON HINTON: The full ANC?

13 MR. HOLIMAN: It was the committee that sees
14 that -- there is a separate committee within the ANC that
15 reviews development projects. We went to the full committee
16 the first time. They directed us -- we went to the full ANC
17 the first time. They directed us to this committee the
18 following week. It's actually the same people, but that's
19 neither here nor there. The committee took a vote to
20 basically support our plan as presented, and that's the same
21 thing that you've seen today.

22 CHAIRPERSON HINTON: Okay, thank you.

23 We'll take that into consideration. But since
24 it hasn't been submitted in writing with all the regulations,
25 it doesn't get the great weight that normally an ANC would be
26 able to have.

1 Concluding remarks, Mr. Keys?

2 MR. KEYS: I think Mr. Bastida did a splendid
3 job of --

4 CHAIRPERSON HINTON: Excuse me. I'm sorry. I
5 need to just check again.

6 Is there anyone in support of the application?
7 Anyone in opposition?

8 Thank you. You can go ahead.

9 MR. KEYS: Thank you.

10 I think Mr. Bastida did an excellent job in
11 summarizing and applying the standards that are applicable to
12 this case. I would like to just redirect the Board's
13 attention to the fact that the adjustments that we are seeking
14 are truly diminimous. If you look at the amount of FAR that's
15 being added to this project given the total FAR of the
16 building, we're under three percent. It's also located at the
17 rear of the building.

18 So, I think we meet the first test of a
19 condition that is unique to this property. We meet the second
20 test in terms of the difficulty of trying to adapt these
21 things and deal with modernization without making these kinds
22 of changes. The last test is that we can do this without
23 having an adverse impact and without deviating dramatically
24 from what our neighbors can expect and what the interests of
25 the architect of the Capitol in dealing with the CAP District
26 can do. We can hide these things. We can improve the

1 appearance of this building, both in the sense of restoring
2 the historic elements of the building that are consistent with
3 the historic standards of the district, of reducing the height
4 of the penthouse and improving the appearance of it by making
5 it with compatible materials. I think all of these elements
6 go to meet that last test.

7 Again, I would ask the Board if it would indulge
8 the applicant with a bench decision today to move this project
9 along. Thank you.

10 CHAIRPERSON HINTON: Thank you.

11 Are we ready to make a decision?

12 MR. FRANKLIN: I am, Madam Chair.

13 CHAIRPERSON HINTON: Very good. How about a
14 motion?

15 MS. RICHARDS: I'll move to approve.

16 MR. FRANKLIN: Second.

17 CHAIRPERSON HINTON: Very good.

18 Is there any discussion?

19 MS. RICHARDS: I think the rationale has been
20 adequately set forth in the discussion on the record.

21 CHAIRPERSON HINTON: Yes, I agree, and also
22 listed in the OP report.

23 Let me call the question. All those in favor?

24 ALL: Aye.

25 CHAIRPERSON HINTON: Opposed?

26 (No response.)

1 CHAIRPERSON HINTON: Summary order.

2 MR. LYONS: Summary order. Staff would record
3 the vote as being 4 to zero to approve the application. Ms.
4 Richards, Mr. Franklin, Ms. Reed, and Ms. Hinton to approve;
5 Mr. Clarens not present and not voting.

6 CHAIRPERSON HINTON: And maybe we ought to be
7 clear about that. Let's approve the variance on the --

8 MR. LYONS: Yes, under 1203.2B.

9 CHAIRPERSON HINTON: Right.

10 MR. LYONS: It's a variance and not a special
11 exception.

12 CHAIRPERSON HINTON: A variance, not a special
13 exception. And I think we ought to make a finding that even
14 though our notification of the hearing listed it as a special
15 exception, it also listed the nature of the relief being --

16 MR. LYONS: Yes, we'll note that in the summary
17 order.

18 CHAIRPERSON HINTON: Great. And so, there's no
19 harm to any party?

20 MR. LYONS: Right.

21 CHAIRPERSON HINTON: Very good.

22 MR. KEYS: Thank you, Madam Chair.

23 CHAIRPERSON HINTON: Thanks.

24 Okay, are we ready to call the next case?

25 MR. LYONS: Sure.

26 The next application is number three on the

1 agenda, Application 16218 of H. Nevins and Sherry K. Mones,
2 pursuant to 11 DCMR 3107.2, for a variance from the rear yard
3 requirements of Subsection 404.1 for an addition to a detached
4 single-family dwelling in an R-1-A District at premises 2208
5 Foxboro Place, N.W., Square 1341, Lot 41.

6 All persons wishing to testify in this
7 application, please rise to take the oath.

8 (Whereupon, the witnesses were sworn.)

9 MR. LYONS: Please be seated.

10 Will the applicant come forward?

11 CHAIRPERSON HINTON: Good morning. Go ahead.

12 MS. MONES: Good morning, members of the Board.

13 I'm Sherry --

14 MR. LYONS: Why don't you use the other
15 microphone?

16 MS. MONES: I'm sorry, you can't hear?

17 CHAIRPERSON HINTON: You might want to speak up
18 a little bit.

19 MR. BASTIDA: And you might want to pull it
20 towards you a little bit, the arm. Pull it toward you, the
21 arm.

22 MS. MONES: Like this? Thank you.

23 I am the owner, half of the owner and also a
24 licensed architect in the District of Columbia. I'm here
25 requesting a zoning variance so that we can put a screen porch
26 of roughly 545 square feet to the rear of our house with

1 decks, in order to connect the house to the garden.

2 Now, you have -- because of weather and so
3 forth, I didn't actually bring boards in -- the plans. I
4 brought copies of everything that I submitted. It's all right
5 here. Would you like me to go through a description of the
6 project, or just address the --

7 CHAIRPERSON HINTON: We have the record and I
8 think that we understand that this is a single-family home?

9 MS. MONES: That is correct.

10 CHAIRPERSON HINTON: And it appears to be built
11 both to the front and rear lot lines? The lot is --

12 MS. MONES: Essentially --

13 CHAIRPERSON HINTON: -- essentially covered --

14 MS. MONES: That's correct.

15 CHAIRPERSON HINTON: -- with the home?

16 MS. MONES: There's a small fraction of the lot
17 which is inside. It's the gray area inside the red setback
18 which are conceivably within the lot line and therefore, could
19 be built upon.

20 CHAIRPERSON HINTON: Right.

21 MS. MONES: And you have a copy of this as well.

22 CHAIRPERSON HINTON: Okay.

23 MS. MONES: But the problem is that there's no
24 alternative location to logically put a screen porch of a
25 useable dimension on this lot. And we didn't want to locate
26 it in the front of the house in the most public area. We

1 wanted it at the rear of the property. And at the rear of the
2 property, we are literally built to the rear yard setback.

3 CHAIRPERSON HINTON: Okay. The area of the
4 screened porch -- the drawings that were forwarded to the
5 Board members don't have dimensions on them. I do see that
6 the full-sized prints are in the record, but the Board members
7 only received the smaller drawing. You gave us a number of
8 545 square feet. Does that include just the part that's
9 screened, or does it also include the walkways leading towards
10 the back?

11 MS. MONES: The screened area is 545 square
12 feet.

13 CHAIRPERSON HINTON: Okay.

14 MS. MONES: That goes into the lot coverage.

15 CHAIRPERSON HINTON: Now, the walkways that are
16 leading to the deck or to the porch and the first set of
17 steps, are those four feet above grade of your yard?

18 MS. MONES: Yes.

19 CHAIRPERSON HINTON: And don't they also count
20 into lot occupancy, anything that's four feet above grade?

21 MS. MONES: They're not covered.

22 CHAIRPERSON HINTON: Is that the requirement?

23 MS. MONES: That was how I went through it with
24 the Building Department.

25 CHAIRPERSON HINTON: Okay. And you are a
26 registered architect --

1 MS. MONES: That is correct.

2 CHAIRPERSON HINTON: -- in the District?

3 MS. MONES: That is correct.

4 CHAIRPERSON HINTON: So, the 545 is just the
5 screen part?

6 MS. MONES: That is correct.

7 CHAIRPERSON HINTON: Okay.

8 MS. MONES: That is all that is considered as
9 part of the lot coverage. Now I have what the Zoning Office
10 provided as far as the calculations. When we went through the
11 calculations, that was --

12 CHAIRPERSON HINTON: The Office of Zoning, the
13 Zoning Administrator? Is that what you're saying?

14 MS. MONES: Correct.

15 CHAIRPERSON HINTON: Okay. And that's on the
16 calculation sheet?

17 MS. MONES: Right.

18 CHAIRPERSON HINTON: Well, I don't see any
19 numbers here that refer to either the existing lot occupancy
20 or the addition. Do you have those on your sheet? Other than
21 the one that was provided which apparently is the total.

22 MS. MONES: That's correct. That's all I have.
23 That's all that they were interested in.

24 CHAIRPERSON HINTON: And you provided that
25 number to them?

26 MS. MONES: Well, we took it off the plat,

1 that's correct. In other words, I provided them with a plat
2 that had that.

3 CHAIRPERSON HINTON: That had what?

4 MS. MONES: The total lot area.

5 CHAIRPERSON HINTON: Okay. The 7,500 square
6 feet?

7 MS. MONES: Correct.

8 CHAIRPERSON HINTON: And the lot occupancy?

9 MS. MONES: Right. The lot occupancy is 40
10 percent. That was not an issue as far -- I mean, the only
11 variance was the rear yard setback.

12 CHAIRPERSON HINTON: Anytime there's an addition
13 that's requested, I think some of the things that need to be
14 considered are the rear yard setbacks, side yard setbacks, the
15 lot occupancy, floor area ratio if its in that district --

16 MS. MONES: It's not.

17 CHAIRPERSON HINTON: -- I mean, those are all
18 the things that have to be looked at, so that's what we're
19 attempting to do is look at all the requirements.

20 MS. MONES: Okay.

21 CHAIRPERSON HINTON: Because the information
22 that was given to me had no dimensions on, I could not get any
23 feeling for how those calculations were made, or what was
24 measured. So, that's why I'm trying to get the information
25 from you.

26 MS. MONES: Okay. They're on the plans which

1 you have. There's a calculation -- it has all the dimensions
2 and it has the calculation of the square footage.

3 CHAIRPERSON HINTON: If you'll just bear with us
4 for a minute.

5 MS. MONES: Certainly.

6 CHAIRPERSON HINTON: We're just trying to figure
7 this out.

8 One of the reasons we need to be careful about
9 this is the numbers that we have received are very close to
10 the maximum lot occupancy. It's listed at 38. I think it's
11 38.4.

12 MS. MONES: That's correct.

13 CHAIRPERSON HINTON: If you go over the 40
14 percent, then you need a variance, another variance.

15 MS. MONES: Right, and we do not in this case.

16 CHAIRPERSON HINTON: Well, that's what we're
17 looking into. I think there may have been an error in the
18 calculations of what actually goes into lot occupancy. Any
19 structure in -- we're going to look up the regs, but the
20 structures in your required rear yard that are four feet above
21 grade count towards lot occupancy, whether or not they're
22 covered, whether or not they have a roof.

23 It appears to me that both of those walkways and
24 the steps leading down, that those also are going to count
25 towards your lot occupancy. Since you are very close, they
26 may well put you over in which case, you would need another

1 variance. So, the Office of Planning is looking into that as
2 far as those calculations.

3 For the purposes of moving the hearing along,
4 why don't --

5 MR. BASTIDA: Could I ask a couple of questions,
6 Madam Chairperson?

7 CHAIRPERSON HINTON: You want to ask them now?

8 MR. BASTIDA: Yes. It will facilitate me to
9 determine what --

10 CHAIRPERSON HINTON: If it will help, yes,
11 please.

12 MR. BASTIDA: If I may?

13 The 545 square feet, I'm looking at your plat
14 plan which you have hatched as the proposed covered porch?

15 MS. MONES: Correct.

16 MR. BASTIDA: Are you looking at that so we can
17 talk about pears and pears and apples and apples? You don't
18 have a copy of that?

19 MS. MONES: I didn't bring the plans -- oh, I'm
20 sorry, I do have that.

21 MR. BASTIDA: The plat plan.

22 MS. MONES: I'm sorry. I did not bring the
23 plans with me because I did not realize that they would be an
24 issue.

25 MR. BASTIDA: Madam, do you mind taking that and
26 that way, we can talk and put it on the record? That's the

1 plat plan that you submitted?

2 MS. MONES: I do have a copy of that.

3 MR. BASTIDA: Okay. So you have a copy of the
4 plat plan in front of you?

5 MS. MONES: I do.

6 MR. BASTIDA: Correct?

7 MS. MONES: Yes.

8 MR. BASTIDA: I am trying to determine that the
9 545 --

10 MS. MONES: Is within the hatch area.

11 MR. BASTIDA: -- is the hatch area?

12 MS. MONES: That is correct.

13 MR. BASTIDA: The areas that are indicated as
14 stairs and balconies --

15 MS. MONES: Right.

16 MR. BASTIDA: -- were not included in the 545?

17 MS. MONES: That is correct. Because in
18 discussion with the Building Department, we went over that and
19 they absolutely told me to exclude it.

20 MR. BASTIDA: And what was the technical
21 explanation by which they deleted it?

22 MS. MONES: Because they were not covered.

23 MR. BASTIDA: I think that the Zoning
24 Administrator erred in providing that information that way.
25 Because anything that is above 48 feet that intrudes into the
26 --

1 MS. MONES: Forty-eight inches.

2 MR. BASTIDA: -- forty-eight inches, thank you -
3 - that intrudes into the rear yard goes to lot occupancy.
4 Anything below four feet would not be considered. So, perhaps
5 some of the stairs and most of the proposed deck would not be
6 included in the calculations perhaps but, in fact, you don't
7 have a true magnitude of the required relief in front of the
8 Board. That also could determine the Office of Planning
9 position on recommending in favor against it. If you were to
10 exceed the 40 percent lot occupancy, perhaps the Office of
11 Planning would recommend against it.

12 MS. MONES: Okay. All I can provide you is the
13 calculations that were provided to me, after the Building
14 Department reviewed the plans.

15 MR. BASTIDA: Let me ask you a question. Is
16 that tied to the house with -- the two wings that has some
17 steps in between are necessary for the adjoining of the deck
18 or can that be deleted from your proposal?

19 MS. MONES: It's very central to the concept
20 because the object here was to build a screened porch that
21 would be a transition element from the house -- and the major
22 part of the house is a level above the garden. And so, the
23 object was to be able to get back to the house from the
24 garden.

25 Now, if it presents a problem, we could consider
26 -- you know, it's really very central to the design concept.

1 MR. BASTIDA: I don't know, Madam Chairperson.
2 It's very difficult at this point for the Office of Planning
3 trying to establish what can be done and work with the
4 applicant. Perhaps since the applicant is willing to work
5 with the Office of Planning to resolve these, you might would
6 like to continue the hearing until that issue is resolved.
7 That way, you can do it at your next meeting, hearing date or
8 whatever to try to work it out. Because I honestly think that
9 if the applicant exceeds the maximum permitted lot occupancy,
10 I think that the Office of Planning will not be able to
11 determine that there is a practical difficulty for the
12 magnitude of the relief requested.

13 CHAIRPERSON HINTON: And it's clear to me too
14 that we can't go forward without knowing. We need to have a
15 determination of what the proposed lot occupancy is --

16 MR. BASTIDA: Correct.

17 CHAIRPERSON HINTON: -- and I don't think that
18 the Board members need to sit here and make those
19 calculations.

20 I appreciate your proposal and I think that
21 would be great. However, if you, working with the applicant
22 results in a proposal that does exceed that lot occupancy,
23 then this would have to be readvertised.

24 MR. BASTIDA: I think that you should ask your
25 staff person, but I believe that it's not needed because the
26 magnitude of the relief is already advertised. You're not

1 increasing the magnitude of the relief. There is an area
2 variance.

3 CHAIRPERSON HINTON: Well, but it would be two
4 variances, wouldn't it?

5 MR. BASTIDA: But the test is the same for both.

6 CHAIRPERSON HINTON: The test is the same for
7 both.

8 Why don't we give that some thought. Why don't
9 we continue this matter and give the applicant an opportunity
10 to work with the Office of Planning to go over the
11 calculations of the proposal and see if an additional variance
12 is needed. If so, if you would prefer to make some changes to
13 your proposal so that that second variance isn't required --

14 MR. LYONS: Madam Chair?

15 CHAIRPERSON HINTON: Yes?

16 MR. LYONS: I can directly contact Mr. Nunley
17 about how he calculated it. I have a feeling that he may have
18 used the rising grade in the back and perhaps made some
19 determination of average grade level where this might fall
20 below that average grade level.

21 CHAIRPERSON HINTON: Okay.

22 MR. LYONS: But I can check with him to see
23 exactly how he determined that.

24 CHAIRPERSON HINTON: That's going to be
25 important and please, make sure Mr. Nunley understands that
26 the rising grade is not on the subject lot. It's on an

1 adjacent lot. I think that the regulation is on the lot.

2 MR. LYONS: Oh, yes, of course.

3 CHAIRPERSON HINTON: So, that would be good.

4 Why don't you do that? And are you agreeing that we need to
5 continue?

6 MR. LYONS: Yes.

7 CHAIRPERSON HINTON: Are you suggesting that the
8 applicant wait to hear from you on the way the calculation was
9 done before they work with the Office of Planning to make any
10 necessary changes?

11 MR. LYONS: Yes.

12 CHAIRPERSON HINTON: It sounds like we'd better
13 continue this for a couple of months?

14 MR. FRANKLIN: I would hope, Madam Chair, that
15 we would not have to continue it for that long.

16 CHAIRPERSON HINTON: Do you want to try our
17 second hearing date in April and see what progress we've made
18 by then? Can we add this case to the agenda?

19 MR. LYONS: April 23rd has been advertised. I
20 think we can add this case to that agenda.

21 CHAIRPERSON HINTON: Do we need to advertise
22 again since we're continuing to a date certain?

23 MR. LYONS: If a lot occupancy variance is
24 needed, we may need to advertise it.

25 CHAIRPERSON HINTON: So, in that case, on April
26 23rd, we could --

1 MR. LYONS: It would have to go to May. April
2 23rd has been advertised. We are well within the 40 days.

3 CHAIRPERSON HINTON: And this is something the
4 staff can handle?

5 MR. LYONS: Yes.

6 CHAIRPERSON HINTON: Okay.

7 MR. BASTIDA: Madam Chairperson?

8 CHAIRPERSON HINTON: Yes?

9 MR. BASTIDA: My offer to work with the
10 applicant would be that an additional variance is not required
11 because otherwise, I think the Office of Planning will not
12 look at the proposal favorably.

13 CHAIRPERSON HINTON: I think we're clear on
14 that. So, if there is a determination that the calculations
15 were done incorrectly and in fact, the proposal in front of us
16 needs two variances, then the applicant could consider working
17 with the Office of Planning. Or on your own, figure out a way
18 to only need the one variance because I think the Office of
19 Planning is advising you that you are not likely to get their
20 support for two variances.

21 MS. MONES: Madam Chairperson, I think there's
22 an easy solution which is to remove the decks, which would be
23 nice but they're not central to what we're trying to
24 accomplish.

25 CHAIRPERSON HINTON: Do you want to do that
26 today or do you want to --

1 MS. MONES: Yes. I mean, clearly, I would like
2 to take a look at it again, but I see no reason not to do that
3 and not to simplify it. We're really just seeking a simple
4 screened porch addition here and not to tie it back to the
5 house, as I would prefer doing, simplifies it. You know, we
6 still get three-quarters of what we're attempting to
7 accomplish here. So, that might be an easy solution.

8 Is it possible that we could go ahead and do
9 that. Then if I have a problem --

10 CHAIRPERSON HINTON: We could go ahead at this
11 point with a modified request to have just the screened porch,
12 which we understand to be 545 square feet.

13 MS. MONES: Correct.

14 CHAIRPERSON HINTON: And after our decision, we
15 would ask you to submit revised plans showing just the
16 screened porch and having those other parts removed.

17 MS. MONES: Okay. Now, can we do the deck off
18 the screened porch that does not rise, as long as it's within
19 48 inches of the ground?

20 CHAIRPERSON HINTON: Of the ground, it doesn't
21 count towards lot occupancy.

22 MS. MONES: It can have the deck there. Because
23 what I'll need to do is rework the stairs and the --

24 CHAIRPERSON HINTON: Yes. Now, you need to go
25 through the process, but I don't believe that that would
26 trigger the need for a variance. So, as far as --

1 MS. MONES: So, a solution that does not trigger
2 a second variance would be acceptable? Which is what I would
3 be doing.

4 CHAIRPERSON HINTON: We're getting on to a
5 slippery slope at this point. The Board can't hear or make a
6 decision when we don't have the proposal in front of us. The
7 proposal really has to be drawn so that we can see it.

8 Now, with your agreement, we can understand what
9 removing parts would be like and we can move ahead thinking
10 just about the screened porch. But when you talk about adding
11 other parts that we haven't seen, we really can't deal with
12 that.

13 MS. MONES: No, no. I'm just suggesting that
14 what we would delete would be everything above 48 inches.

15 MS. RICHARDS: Madam Chairperson --

16 CHAIRPERSON HINTON: I'm assuming those are the
17 two wings that go back, the two wings?

18 MS. MONES: The wings from the stairs that go
19 back to the house, starting at the bottom of the stairs.

20 CHAIRPERSON HINTON: Right, right.

21 MS. MONES: Okay. But you see there's deck
22 around the porch as well.

23 CHAIRPERSON HINTON: I do.

24 MS. MONES: And that's what I was referring to.

25 CHAIRPERSON HINTON: Yes, that's not a problem.

26 MS. MONES: That can remain. Okay, that's

1 exactly what I was referring to.

2 CHAIRPERSON HINTON: Because it appears from the
3 drawing that that's lower than 48 inches above the grade.

4 MS. MONES: Correct.

5 CHAIRPERSON HINTON: Is that true?

6 MS. MONES: Right.

7 CHAIRPERSON HINTON: So then that part of the
8 deck is not a problem.

9 MS. MONES: Okay. That's what I was referring
10 to --

11 CHAIRPERSON HINTON: So, that can stay the way
12 it is on the drawings?

13 MS. MONES: Right, yes. Everything from the
14 steps up will be removed.

15 CHAIRPERSON HINTON: Right. Okay, good.

16 MS. MONES: I don't think there's any --

17 CHAIRPERSON HINTON: Okay, are we ready to move
18 ahead? You're fine with that? Okay.

19 So, you have a screened porch that you'd like to
20 add to the rear of your house?

21 MS. MONES: Correct.

22 CHAIRPERSON HINTON: Okay. And it's 545 square
23 feet?

24 MS. MONES: That is correct.

25 CHAIRPERSON HINTON: Right. And it appears from
26 the drawings to be a one-story kind of enclosure?

1 MS. MONES: That is correct.

2 CHAIRPERSON HINTON: Okay. You might want to
3 address the test for variance, the three-pronged test?

4 MS. MONES: Right. We have an exceptional
5 property situation which deprives us of a reasonable use of
6 the property. That stems from the very shallow and very odd
7 shape of the lot. In addition, we have land within the
8 building restriction lines, but it's not of a dimension or a
9 size or in the right location that would accommodate what
10 we're trying to accomplish here. Therefore, we have no
11 alternative location for this porch addition.

12 The property line is at the bottom of a very
13 steep slope. I have a section here which gives you an idea of
14 -- it is quite steep and --

15 CHAIRPERSON HINTON: Would you hold that up?

16 MS. MONES: Certainly. Would you like me to put
17 it on the --

18 CHAIRPERSON HINTON: That would be fine. We
19 have a reduced copy of that in our files, too.

20 MS. MONES: Our property line -- the land is
21 flat out to our property line and then at the edge of the
22 property line, it immediately starts going up and it goes up
23 quite steeply. At the top of the hill is a fence line of the
24 rear property, the adjacent rear property. The fence line is
25 roughly 32 feet beyond our property line. So, we have our 25
26 feet and then there's the 32 feet where their fence line is

1 located. The porch would be more than 30 feet from that
2 fence. Just by looking at the land, it's not a practical
3 place to build. We have the concurrence of the neighbor on
4 that property supporting our zoning variance application. I
5 believe that it's in recognition of the fact that it's really
6 not buildable land anyway.

7 There's no detriment to -- the second issue
8 would be no detriment to the public good. First of all, what
9 we're proposing to put is not visible by any of our neighbors
10 and all of our neighbors have supported. They have been
11 informed, have reviewed the plans and have supported our
12 project. In fact, I think it's fair to say that this will
13 enhance our property and by association, add value to theirs
14 as well. So, everyone is really very supportive of this, as
15 well as the ANC. I believe you've gotten a letter from the
16 ANC. I presented the project to the ANC and they have
17 unanimously supported this project as well.

18 Third, I believe that there's no impairment to
19 the intent, purpose and integrity of the zone plan from
20 granting us relief for this addition because the land
21 immediately to the north really does not lend itself to
22 development, as I just discussed. It's a reasonable and
23 customary feature that we are adding to the property and it is
24 more than 25 feet from our neighbor's fence line. That pretty
25 well concludes my position on this.

26 CHAIRPERSON HINTON: Okay, thank you.

1 Questions from the Board members?

2 Mr. Franklin?

3 MR. FRANKLIN: I have no question. I have an
4 observation when it's timely.

5 CHAIRPERSON HINTON: Okay. I have a couple of
6 questions.

7 One of your reasons for showing an exceptional
8 condition of the property is the location and configuration of
9 the structure on the lot takes up all the building portions.
10 Is this a new house? It appears from the photos that it's not
11 too old.

12 MS. MONES: It was built in '85-'86.

13 CHAIRPERSON HINTON: Relatively new. Are you
14 the original owner?

15 MS. MONES: No. No, we purchased it not quite
16 three years ago.

17 CHAIRPERSON HINTON: One other thing that you
18 said peaked my interest, that a screened porch is a usual and
19 customary part of a single-family home. I'm assuming you're
20 thinking single-family home.

21 MS. MONES: Correct.

22 CHAIRPERSON HINTON: What are you basing that
23 on?

24 MS. MONES: Well, my husband who moved from
25 Maryland had a customary home with a screened porch and he
26 would like to have the same feature in our house here. It's

1 the kind of thing that's consistent with a single-family
2 residential home. It would be for our private use and an
3 element that we believe would make owning and living in this
4 property more delightful and enjoyable.

5 CHAIRPERSON HINTON: Okay. Part of the test for
6 a variance is -- I want to get the wording just right on this
7 because it's important -- that there is a condition of the
8 property that makes it a practical difficulty to develop the
9 property in accordance with the regs and deprives the
10 applicant of reasonable use of the property.

11 This is a single-family lot and it appears that
12 there's a pretty large single-family home located there. In
13 order to grant a variance, you have to show that you are
14 deprived of a reasonable use of the property.

15 MS. MONES: A reasonable use is being able to
16 dine outside in somewhat inclement weather -- I don't mean
17 outside, dine on a screened porch, for example, or you know,
18 to further be able to enjoy our property and our garden.

19 CHAIRPERSON HINTON: Okay, and there is a patio.
20 There is an existing patio on the lot, is that right?

21 MS. MONES: There is a patio that is not
22 accessible from the main part of the house. That is correct.

23 CHAIRPERSON HINTON: And if you remove the parts
24 that we've talked about, the screened porch won't be
25 accessible from the house either?

26 MS. MONES: No, no, it will be.

1 CHAIRPERSON HINTON: How will it be?

2 MS. MONES: You have the large plans.

3 CHAIRPERSON HINTON: Yes.

4 MS. MONES: But what happens is, off the
5 kitchen, you go down steps to the garage and this is to be
6 located at this -- down the steps.

7 CHAIRPERSON HINTON: From the kitchen, you go
8 down steps to the garage?

9 MS. MONES: Right. It goes around and after the
10 first run of steps, the screened porch comes off from there.

11 CHAIRPERSON HINTON: But those steps need to be
12 eliminated because --

13 MS. MONES: No, no, no. They're interior to the
14 house.

15 CHAIRPERSON HINTON: So, access to this porch is
16 from the garage?

17 MS. MONES: Is from the inside. No, it's from
18 the -- it's adjacent to the kitchen. There are steps that go
19 down to the lower level and this goes off of that. So, it is
20 accessible from the kitchen.

21 CHAIRPERSON HINTON: And there isn't any access
22 to your patio?

23 MS. MONES: It's from the lower level, not from
24 the main level of the house. Is that what you mean?

25 CHAIRPERSON HINTON: That's what I mean.

26 MS. MONES: There's an open patio. There's a

1 patio on-grade in the rear and this would be adjacent to that.

2 There is a --

3 CHAIRPERSON HINTON: Adjacent to it and up about
4 a half-a-level.

5 MS. MONES: There is a deck off the kitchen
6 which we considered enclosing, but it will be visible to the
7 neighbors and it also will be adding to the bulk of the house
8 that I don't want to do. It isn't the kind of a solution. It
9 will not enhance the view of the house from the road, and it's
10 visible from the public roadway.

11 CHAIRPERSON HINTON: The deck off the kitchen.
12 And where is that?

13 MS. MONES: The deck off the kitchen. There's a
14 deck off the kitchen.

15 CHAIRPERSON HINTON: Is that shown on here?

16 MS. MONES: Yes. It's over the garage.

17 CHAIRPERSON HINTON: There's a deck over the
18 garage.

19 MS. MONES: Over the garage.

20 CHAIRPERSON HINTON: And that's accessible from
21 the kitchen?

22 MS. MONES: That is correct.

23 CHAIRPERSON HINTON: But it's not covered?

24 MS. MONES: That is correct.

25 CHAIRPERSON HINTON: So, you could eat out
26 there, but not when it's raining?

1 MS. MONES: That is correct.

2 CHAIRPERSON HINTON: Okay.

3 MS. MONES: But we wanted was this transition
4 element that was on a lower level that gave us access to the
5 garden.

6 CHAIRPERSON HINTON: Right, okay.

7 Would you like to make your comment now, Mr.
8 Franklin?

9 MR. FRANKLIN: No, it's been overtaken by new
10 information so I'll withdraw it.

11 CHAIRPERSON HINTON: Okay.

12 Why don't we move to the Office of Planning
13 report?

14 MR. BASTIDA: Good morning, again, Madam
15 Chairperson, Members of the Board. For the record, my name is
16 Alberto Bastida with the Office of Planning.

17 The Office of Planning recommends approval of
18 this application provided that the maximum lot occupancy is
19 not exceeded. The practical difficulty resizing in several
20 points, has been spelled out in the Office of Planning report
21 of March 12th. The main difficulty in this instance is the
22 irregularly shaped and shallowness of the lot. When the house
23 was first built, it was built as a matter of right and it was
24 so located as not to require any deviations from the zoning
25 regulations. Any additions to the house that if were not
26 being so shallow it could be done in the back, would require a

1 deviation from the zoning regulations and in this instance,
2 triggers a variance from the rear yard requirements.

3 The Office of Planning believes that there will
4 be no negative area impacts. The house abuts to the rear, a
5 very large estate which is the Cafritz Estate. It's over nine
6 acres, I think. As a matter of fact, the slope that goes
7 upward from the rear of the house to the adjacent property is
8 fenced at the top of that steep embankment, which gives the
9 house -- this lot -- the appearance that that is their rear
10 yard, which it's not. Because the fence is at the top of the
11 grade so accordingly, there is a tremendous distance there --
12 about 40, 50 feet on that.

13 So, we believe because of that, there would be
14 no negative area impacts or impacts on the zone plan for the
15 city. Based on that, the Office of Planning recommends
16 approval of this application. This has been because of the
17 public hearing and the new information that appeared, it has
18 taught me that I would have to calculate all the slots for the
19 Zoning Administrator. I took his computations as being
20 correct.

21 I would like to point out, even though I'm not
22 trying to rehash the problem, but if you were to close the
23 record now, the applicant would have to submit the plans. The
24 plans will have to be sent to the Zoning Administrator to
25 determine if, in fact, it complies to see which decision you
26 are going to take. So, it's going to take two or three months

1 to resolve it. The applicant has made a very expeditious
2 decision trying to see that they will not exceed the lot
3 occupancy. I think that perhaps the applicant will be better
4 served by having a postponement of four weeks, if she would
5 request that. I mean, it's up to the applicant to request it.
6 This office would work with the Zoning Administrator to
7 expeditiously get the findings on the calculations. She would
8 have a couple of days to really think the design issue and so
9 on, and the Office of Planning will be glad to work with her
10 on an expeditious fashion. I am saying these out of concern
11 that the applicant might not, making a very expeditious
12 decision, do what is best for her. But that is for her to
13 determine.

14 That concludes my remarks. I will be glad to
15 try to answer any questions you might have. Thank you.

16 CHAIRPERSON HINTON: Okay. Are there any
17 questions? No.

18 I have a question. I'm a little concern about
19 your determination that this is an irregularly shaped lot. In
20 some of the maps that are in the record, there are actually a
21 couple of other cul-de-sacs shown. It appears to me that not
22 only on this cul-de-sac which is Foxboro, but also the one to
23 the north which I can't read the name because there's a hole
24 in it. This is not at all an irregular shaped lot for the end
25 of a cul-de-sac.

26 Now, it also appears to me that the lots on this

1 road were designed to squeeze in as many single-family lots as
2 could fit, which is normal. It resulted in having seven
3 single-family lots with a couple of them rather small, rather
4 than maybe having six or five that would have nice deep lots
5 that you might find on a street that wasn't a cul-de-sac. And
6 so, I'm trying to understand. I would think that when the
7 Board looks at the shape of a lot when we're considering a
8 variance, we have to think about the fact that this is the end
9 of a cul-de-sac where lots usually are this shape. And that
10 would make it usual rather than extraordinary.

11 Did that enter into your consideration at all?
12 Are you comparing this to the shape of a lot that maybe would
13 be on one of the streets, grid streets of the city?

14 MR. BASTIDA: The main emphasis from our review
15 is how shallow the lot is. Because even if it were a perfect
16 rectangular lot, because of the shallowness, it limits the
17 area in which you could build. So, it necessitates the
18 location of this house within very confined parameters to meet
19 with all the requirements of the zoning regulations.

20 CHAIRPERSON HINTON: Okay. And then the other
21 part of the variance test is that it deprives the owner of
22 reasonable use of the property. So, are you saying that this
23 rather large home on this lot isn't reasonable because it
24 doesn't have a screened porch?

25 MR. BASTIDA: No, I am not saying that. What
26 I'm saying is if the lot is not buildable because of the

1 shallowness as a matter of right, but there is still within
2 the parameters of the development, especially of the lot
3 occupancy, I -- what is the opinion of the Board is we're
4 depriving the applicant of a reasonable use of their lot or
5 not, I can not --

6 CHAIRPERSON HINTON: Well, that's part of the
7 test of the variance which I --

8 MR. BASTIDA: But you see, it is not. Even if
9 they want to do something else and not necessarily a porch,
10 that's what I can't -- I have to be more generic.

11 CHAIRPERSON HINTON: Well, what's triggering the
12 variance is the fact that this porch is covered and four feet
13 above grade. It could be a deck less than four feet above
14 grade and if it weren't covered, it wouldn't --

15 MR. BASTIDA: It would because it is above four
16 feet above grade that it would be. The majority, I think,
17 will -- the lot occupancy.

18 CHAIRPERSON HINTON: But I'm saying if it were
19 not four feet above grade, it could extend into the rear yard,
20 couldn't it?

21 MR. BASTIDA: That is correct.

22 CHAIRPERSON HINTON: Okay.

23 MR. BASTIDA: It could extend into the rear yard
24 for a maximum of, I think, 12 feet because it can only cover
25 50 percent of the rear yard.

26 CHAIRPERSON HINTON: Right. That's right.

1 MR. BASTIDA: Or they could have a deck in there
2 for the 12 feet.

3 CHAIRPERSON HINTON: Okay.

4 One other thing I wanted to know if you thought
5 about is that there's been discussion about the adjacent
6 property and the fact that there is a steep slope, fence is at
7 the top of the slope. That's the existing condition. Are you
8 aware of any agreement or covenant that says that that won't
9 change? That that would never be developed?

10 MR. BASTIDA: No. The only thing I am aware is
11 the applicant contacted the Cafritzs and tried to buy that
12 part of the property from them so they would, in that way, be
13 in compliance with the regulations and they could build as a
14 matter of right. The Cafritzs were not interested in selling
15 any part of their property and in return said that they would
16 be glad to support their application. But that is something
17 that could change and you're correct in that respect.

18 CHAIRPERSON HINTON: Okay. Okay, very good.

19 The ANC. Is there anyone here from the ANC?
20 No. We have a letter in our file from ANC 3-D that is in
21 support. The vote was 7 to zero.

22 Is there anyone in support of the application?
23 Anyone in opposition?

24 Would you like to make closing remarks?

25 MS. MONES: Certainly. I would hope that you
26 would look favorably upon our application. We feel as though

1 we would do anything to conform to -- we are not interested in
2 doing anything that's not in conformance with the zoning code.
3 It's just that the area of land that is around the house is
4 not useable for a screened porch. We would like to do that in
5 the rear for all the reasons that I've suggested. All of our
6 neighbors really are most supportive, as well as the ANC.

7 I guess I would hope that you would understand
8 from our perspective that this is a feature that would truly
9 enhance our use of our property. We would hope that you would
10 see the rationale and be able to clear the way for us.

11 CHAIRPERSON HINTON: Okay, thank you.

12 I should mention in the record, there are a
13 number of letters of support, or actually, signatures of
14 support from the residents of the street that this --

15 MS. MONES: That's correct.

16 CHAIRPERSON HINTON: -- lot is located on and
17 the adjacent street.

18 MS. MONES: Correct. It's all of our neighbors
19 and they are all most positive to see this go forward.

20 CHAIRPERSON HINTON: And there's no opposition?

21 MS. MONES: That is correct.

22 CHAIRPERSON HINTON: Okay.

23 Board members, we can either make a bench
24 decision or we can contemplate and set this for decision in
25 April.

26 MR. FRANKLIN: Well, I am ready to move, Madam

1 Chair, to approve it today if my colleagues --

2 MS. RICHARDS: Do we need revised plans before
3 we vote?

4 CHAIRPERSON HINTON: The question is whether we
5 should have revised plans before we vote and I think that
6 would be a really good idea. So, why don't we set this for
7 April if the applicant is able to provide the plans in that
8 time.

9 MR. LYONS: Can the applicant produce the plans
10 by April 2nd?

11 MS. MONES: I think so. The problem is that I'm
12 going to be away. Do they have to be here by April 2nd? I
13 can probably work that out.

14 CHAIRPERSON HINTON: Well, if they're not here
15 on April 2nd, we couldn't make our decision on the 9th. We
16 would have to wait until May.

17 MS. MONES: Oh, so you would do it on the 9th?

18 CHAIRPERSON HINTON: We would make a decision on
19 the 9th if the revised plans are here.

20 MS. MONES: Okay. I'm pretty sure I can
21 accommodate that. I can do that.

22 CHAIRPERSON HINTON: Now, the other thing is,
23 when we look at the plans, we'll have to be able to be sure
24 that there is not another variance needed.

25 MS. MONES: Correct.

26 CHAIRPERSON HINTON: But we're assuming that if

1 you make those changes, that's going to be the case.

2 MS. MONES: That is correct.

3 CHAIRPERSON HINTON: Okay. So, you think by the
4 2nd?

5 MS. MONES: I think it's a minor revision,
6 really.

7 CHAIRPERSON HINTON: Okay, very good.

8 MR. LYONS: Then the Board will make a decision
9 on the application at its April 9th meeting.

10 MS. MONES: Okay. And you want architectural
11 plans that you have in your possession -- the corrections will
12 be made on that. Is that what I understand?

13 MR. LYONS: It would be revisions to those
14 plans, yes.

15 MS. MONES: Okay, yes.

16 CHAIRPERSON HINTON: A new set of plans.

17 MS. MONES: Correct.

18 CHAIRPERSON HINTON: Yes. If you have any other
19 questions, you can talk to the secretary or our members of the
20 staff.

21 MS. MONES: Okay, thank you. So, the date would
22 be the 9th then?

23 CHAIRPERSON HINTON: Our meeting will be on the
24 9th.

25 MS. MONES: Okay. Will I be informed again?

26 MR. LYONS: We can talk to you about that, that

1 process.

2 MS. MONES: Thank you.

3 MR. LYONS: The next case of the morning is
4 Application 16212 of the Inez Cushard Family Trust, pursuant
5 to 11 DCMR 3108.1, for a special exception under Section 213
6 to continue to operate a 27 space parking lot approved under
7 BZA Order No. 15919 dated May 27th, 1994 in an R-2 District at
8 the rear of 4926 Wisconsin Avenue, N.W., Square 1671, Lot 30.

9 All persons wishing to testify in this
10 application, please rise to take the oath. Please raise your
11 right hand.

12 (Whereupon, the witnesses were sworn.)

13 MR. LYONS: Please be seated.

14 Will the applicant come forward?

15 MR. CATE: Madam Chair, Members of the Board, my
16 name is Dennis Cate and I represent the Inez Cushard Family
17 Trust, the applicant for this -- With me are Carol Patterson,
18 the co-trustee of the trust and Cathy Mitchell, co-owner of
19 the Wild Bird Center. The Wild Bird Center leases the parking
20 lot and operates on a day-to-day basis.

21 I'll briefly go through how we believe that the
22 applicant meets the requirements for the special exception.

23 As we've already stated, the property is Lot 30
24 at Square 1671. It is triangular in shape and is surrounded
25 by a 15 foot wide public alley. It contains, according to tax
26 records, 8,367 square feet and is zoned R-2. We've proposed

1 the continuation of a parking lot which was approved most
2 recently in 1994 in Case Number 15919. As part of that
3 application, we installed an automatic gate to secure the
4 parking lot from unauthorized use and also to preclude use
5 outside of the authorized hours. Because of that
6 installation, two parking spaces were lost. So, actually,
7 we're requesting approval of 25 parking spaces rather than the
8 27 spaces noted.

9 The operation of the parking lot will be the
10 same as that previously approved. We are requesting the
11 addition of limited weekend hours for the employees and
12 customers of the store located at 4926 Wisconsin Avenue, N.W.
13 Currently, the parking lot's permitted hours are 7:00 a.m. to
14 7:00 p.m., Monday through Friday. We are requesting in
15 addition to that, that the lot be allowed to be open from 9:00
16 a.m. to 7:00 p.m. on Saturdays and 11:00 a.m. to 6:00 p.m. for
17 the employees and for the customers of 4926 Wisconsin Avenue
18 retail space. That space is occupied by the Wild Bird Center
19 which leases the parking lot and operates it on a day-to-day
20 basis.

21 After the Office of Planning report was
22 submitted to the Board, I spoke with Mr. Bastida regarding the
23 requested operating hours for the weekend. We discussed the
24 discrepancy in his condition versus what we had applied for
25 and Mr. Bastida has stated that the Office of Planning has no
26 objections to the weekend hours inasmuch as ANC-3E has

1 recommended approval of the application with those weekend
2 hours. Mr. Bastida will present that and confirm as well.

3 The application was presented to ANC-3E on
4 October 24th and ANC-3E has voted to support the application.
5 Their report is in the file. Other than the expanded hours of
6 operation, this is the same application that was approved in
7 1994.

8 The current application meets the conditions for
9 the grant of special exception. I'll just quickly go through
10 the different provisions that are met. Section 213.1 requires
11 Board of Zoning Adjustment approval, and we are seeking that
12 now. Section 213.2 requires the parking lot to be located --
13 200 feet of an existing commercial district. The entire lot
14 is within 200 feet of the existing commercial district,
15 fronting on to Wisconsin Avenue. Section 213.3 requires the
16 lot to be contiguous to or separated only by a public alley
17 from that commercial district. It is separated only by a 15
18 foot public alley.

19 Section 213.4 requires compliance with Chapter
20 23 and Section 2303 applies to parking lots. The lot
21 continues to be paved and the entrance is not located within
22 40 feet of a street intersection. There is no on-site
23 lighting and the lot operators have committed to regular
24 inspection and cleanup. The lot continues to be screened from
25 residential properties by the existing masonry wall. A metal
26 guardrail continues to constitute the lot boundary across the

1 public alley from the commercial district. There is no
2 attendants' booth and no vehicle is permitted over a lot or
3 building line or into public space. As required by the
4 previous grant of special exception, an automatic gate has
5 been installed to control access.

6 Section 213.5 requires the lot not result in
7 dangerous or otherwise objectionable traffic conditions, and
8 not adversely effect the present character and future
9 development of the neighborhood. The parking lot has been in
10 existence for some time and has been operated since 1994 with
11 the automatic gate. We believe that the owner and the
12 operators have shown that the parking lot can be a good
13 neighbor. The owner and the operators have received no
14 objections to the operation of the parking lot. Hours have
15 been strictly enforced and the parking lot has been well
16 maintained. The operators pick up the lot on a regular basis,
17 and the owner has contracted for someone to come out and pick
18 up the lot and repair potholes and walls and so forth on an
19 as-needed basis.

20 The lot is not large and it now has two less spaces than
21 previously approved. It is not expected to generate heavy
22 volumes of traffic. Therefore, we believe the lot will not
23 result in dangerous or objectionable traffic conditions, or
24 effect the character and development of the neighborhood
25 adversely.

26 Section 213.6 requires the lot be reasonably

1 necessary and convenient to other uses in the vicinity and
2 likely result in a reduction of over-spilled parking. The
3 parking lot serves monthly parkers who work or attend school
4 in this area, as well as customers and employees of the Wild
5 Bird Center. Without this parking lot, they would be
6 searching for on-street parking. The lot is convenient for
7 the renters and the customers and likely reduces the need to
8 park on the streets, and thus, reduces over-spilled parking.

9 Section 213.7 requires that -- spaces serve
10 residential use of short-term parking needs of retail -- There
11 are monthly tenants, but a majority of the spaces -- for the
12 customers of the retail space at 4926 Wisconsin Avenue.

13 Section 213.8 requires the Board to submit the application to
14 the Department of Public Works. It has been noted that it has
15 been submitted. We have seen no report from the Department of
16 Public Works. The Office of Planning has recommended
17 conditional approval of this application and it finds that the
18 applications meets the standards for the grant of special
19 exception.

20 Other than the condition regarding the weekend
21 hours, we have no problem with the conditions recommended by
22 the Office of Planning report. We would request, therefore,
23 that in the light of the fact that the parking lot ha operated
24 as a good neighbor since the last approval, the fact that both
25 ANC-3E and the Office of Planning have recommended approval,
26 and our belief that we meet all of the requirements for the

1 grant of special exception, we request the favorable action of
2 the Board, subject to conditions submitted by the Office of
3 Planning report, subject to the condition of hours being
4 changed to reflect the requested hours.

5 Thank you. Ms. Patterson would like to make a
6 short statement and then Cathy Mitchell as well. If there are
7 any questions, we'd be happy to answer them.

8 CHAIRPERSON HINTON: All right. Why don't we
9 finish with your statements and then we'll take questions all
10 at once.

11 MR. CATE: Okay.

12 MS. PATTERSON: Madam Chairperson, Members of
13 the Board, my name is Carol Cushard Patterson. I'm the
14 daughter of Inez Cushard. I'm the co-trustee of the Inez
15 Cushard Family Trust which owns the parking lot at the rear of
16 4926 Wisconsin Avenue, N.W.

17 We were last before the Board of Zoning
18 Adjustment in 1994 for a special exception to continue a
19 parking lot use that had been in effect for some years. As
20 part of that special exception approval, we had an automatic
21 gate installed and have provided hands-on attention to the
22 parking lot in conjunction with the owners of the Wild Bird
23 Center who operate the parking lot on a day-to-day basis.

24 In addition to the regular pickup of any trash
25 on the lot by the Wild Bird Center, I have continued to
26 contract with a gentleman who stops by to clean and repair the

1 parking lot. My telephone number was distributed to the
2 owners of the surrounding properties during the last approval
3 process, and I would be happy to provide my home telephone
4 number to any other owners who may have moved into the area.
5 I am available to hear any complaints or concerns regarding
6 the parking lot so that I can address and try to resolve them.

7 I can say that since the last approval, I have
8 received no complaints. I believe that we have shown our
9 intention to be good neighbors and have lived up to that
10 intention. We will continue to be good neighbors and request
11 that you approve our parking lot special exception for five
12 years. At the end of that time, we expect to come back before
13 the Board with a request to continue the parking lot with a
14 similar record of being good neighbors and no complaints.

15 Thank you for your time. If you have any
16 questions, I'd be happy to answer them.

17 CHAIRPERSON HINTON: Thanks.

18 MS. MITCHELL: Good afternoon, Madam Chairperson
19 and Members of the Board. My name is Catherine Mitchell. I
20 am a co-owner of the Wild Bird Center store at 4926 Wisconsin
21 Avenue, N.W.

22 We rent the parking lot located to the rear of
23 4926 Wisconsin Avenue, N.W., and operate it on a day-to-day
24 basis. We have been responsible for the day-to-day operation
25 of the parking lot since the parking lot's special exception
26 was approved in 1994. We pick up the lot on a regular basis

1 and secure it from unauthorized use. An automatic gate was
2 installed as part of the 1994 special exception and this gate
3 only operates during the hours permitted by the special
4 exception.

5 We are a community oriented store and our
6 business depends on being good neighbors. We believe we have
7 been good neighbors, both in the store and with the parking
8 lot. We think this is evidenced by an absence of complaints
9 regarding the operation of the parking lot and the fact that
10 our application for the special exception, which includes
11 weekend hours for the parking lot, was unanimously supported
12 by ANC-3E.

13 We are asking to continue the parking lot
14 special exception as it has been in existence since the last
15 approval, with the addition of weekend hours. We are asking
16 that limited Saturday and Sunday hours be permitted to
17 accommodate our employees and customers. Although there are
18 no restrictions on weekends for street parking, it is more
19 convenient for our customers and employees to use the parking
20 lot rather than to search for parking spaces and to take
21 spaces away from the neighboring residents. We think the
22 weekend parking availability would be a great assistance to
23 our business and help us to remain a part of the community.
24 The weekend hours we propose are from 9:00 a.m. to 7:00 p.m.
25 on Saturdays, and 11:00 a.m. to 6:00 p.m. on Sundays. These
26 hours would permit our employees time to close the store and

1 do some paperwork and still get to their cars before the gate
2 is automatically locked.

3 We have provided our telephone numbers to the
4 neighbors in the past to register any complaints or to report
5 any problems. If any resident of the surrounding properties
6 does not have our numbers, we would be happy to provide them
7 so that we can be apprised of any concerns or questions and
8 act on them as quickly as possible.

9 We believe that the parking lot as proposed
10 meets the requirements for a special exception. We request
11 that the special exception be approved for a period of five
12 years. We have been good neighbors and will continue to be
13 good neighbors. We request that this special exception
14 application be approved with the limited weekend hours
15 requested.

16 Thank you for your time. If you have any
17 questions, I would be happy to answer them.

18 CHAIRPERSON HINTON: Thank you.

19 Are there any questions from the Board members?

20 None.

21 Okay, let's move to the Office of Planning.

22 MR. BASTIDA: Madam Chairperson and Members of
23 the Board, for the record, my name is Alberto Bastida with the
24 DC Office of Planning.

25 The Office of Planning submitted its report on
26 May 12th and recommended favorable in this application. I

1 will not go through all the subsections since the applicant
2 did an excellent job going through them. I will go directly
3 to the conditions.

4 One of the points is the Office of Planning
5 referred this application to the Department of Public Works.
6 The Department of Public Works did not provide the Office of
7 Planning with a report in this case.

8 CHAIRPERSON HINTON: Okay.

9 MR. BASTIDA: The conditions of the Office of
10 Planning proffered to the Board a very similar, not identical,
11 to the ones that the Board imposed in 1994. The applicant or
12 the lessee for the applicant is doing an excellent job now.
13 This was a parking lot by which was very controversial and
14 there was a lot of complaints. That has been eliminated since
15 the last time. So, the Office of Planning would recommend
16 that the Board approves this application with those conditions
17 and changing the hours of operation for the parking lot on
18 Saturday from 9:00 a.m. to 7:00 and on Sundays from 11:00 to
19 6:00.

20 That concludes the presentation of the Office of
21 Planning. If you have any questions, I will try to answer
22 them. Thank you.

23 CHAIRPERSON HINTON: Any questions?

24 MS. REID: In regard to the hours of operation
25 of the parking lot, in the written recommendation, you
26 recommended that it be operational from 7:00 to 7:00 Monday

1 through Friday and then 7:00 to 4:00 on Saturday. Did I just
2 hear you say that you are recommending now that it be 7:00 to
3 7:00 Monday through Saturday, and Sunday from 11:00 to 6:00?

4 MR. BASTIDA: That is correct.

5 MS. REID: So, in other words, basically, you
6 amended your written report?

7 MR. BASTIDA: That is correct. Why?

8 MS. REID: No, no, no. I said to comply with
9 what they are requesting in their application?

10 MR. BASTIDA: Well, that is correct, but it is
11 based on their approval of their neighbors and the ANC that,
12 in fact, they have become good neighbors and they foresee
13 there would not be negative impacts by the other hours of
14 operation. That's why I revised the Office of Planning
15 report. The Office of Planning was not in receipt in their
16 office on the ANC's position on that matter. The Office of
17 Planning believes that it is better to err on the side of
18 caution than on the other side.

19 MS. REID: Okay, thank you.

20 MR. FRANKLIN: Madam Chair?

21 CHAIRPERSON HINTON: Yes?

22 MR. FRANKLIN: Does the Office of Planning -- I
23 don't have the report right at hand. Do they concur with a
24 five-year extension in this permit?

25 CHAIRPERSON HINTON: That's a good question.
26 Are you wondering whether it could be longer or shorter?

1 MR. FRANKLIN: Well, I think the previous
2 conditions were three years and the applicant -- or five?

3 CHAIRPERSON HINTON: Yes.

4 MR. FRANKLIN: Yes, I see what happened.
5 Approval shall be incurred at five years.

6 MS. MITCHELL: Same conditions that were
7 acceptable changing the time -- our cooperation, I think.

8 MR. FRANKLIN: Maybe I misread the record. I
9 have the impression that there was an extension.

10 CHAIRPERSON HINTON: It was three before. The
11 first time it was approved it was for three.

12 MR. FRANKLIN: It was three, yes. Okay.

13 MR. BASTIDA: Condition number one of the Office
14 of Planning recommends five years.

15 MR. FRANKLIN: Yes, okay. Thank you.

16 CHAIRPERSON HINTON: Okay. I have no questions
17 of the Office of Planning.

18 Do we have an ANC representative? We don't. We
19 have a letter in the record from ANC-3E. Actually, we have
20 two letters and I'm going to go to the most recent which is
21 from the 3rd of February. The ANC has voted to support the
22 application by a vote of 5 to zero. I think that all the
23 information is included in the letter so that we should give
24 this recommendation by the ANC great weight.

25 Are there any persons in support or persons in
26 opposition?

1 Seeing none, would you like to make concluding
2 remarks?

3 MR. CATE: Just a simple request that based on
4 the record before the Board, we request your favorable action
5 on our request.

6 CHAIRPERSON HINTON: Okay. Since there's no
7 outstanding information, maybe we can try to make a decision
8 today, if the Board members are agreeable.

9 Do I hear a motion?

10 MR. FRANKLIN: I move, Madam Chair, to approve
11 the application in accordance with the recommendations of the
12 Office of Planning.

13 MS. REID: I second it.

14 CHAIRPERSON HINTON: Very good. That would be
15 as modified today with the new hours.

16 MRS. ROSE: Can we just go over the hours one
17 more time so we won't have to wait for the transcript?

18 CHAIRPERSON HINTON: We don't have to go over
19 the conditions. I'm sure we've read them all there, 1 through
20 14, as listed in the OP report. But the hours have been
21 modified as the applicant requested, to be 7:00 a.m. to 7:00
22 p.m., Monday through Friday; 9:00 a.m. to 7:00 p.m., Saturday;
23 and 11:00 a.m. to 6:00 p.m., Sunday.

24 Okay, we're properly moved and seconded. All
25 those in favor?

26 ALL: Aye.

1 CHAIRPERSON HINTON: Opposed?

2 (No response.)

3 MR. LYONS: I'm sorry. I didn't get who
4 seconded the motion.

5 CHAIRPERSON HINTON: Ms. Reid, did you second?

6 MS. REID: I did.

7 CHAIRPERSON HINTON: You did.

8 Yes, Ms. Reid.

9 MR. LYONS: Staff would record the vote as being
10 4 to zero to approve the application. Mr. Franklin, Ms. Reid,
11 Ms. Richards and Ms. Hinton to approve; Mr. Clarens not
12 present and not voting. And I assume a summary order?

13 CHAIRPERSON HINTON: Summary order, thank you.

14 MR. LYONS: Yes.

15 MR. CATE: Thank you very much.

16 CHAIRPERSON HINTON: Thanks for doing such a
17 good job.

18 MR. LYONS: The last case of the morning is
19 Application 16219 of Barry Zigas and Jodie Levin-Epstein,
20 pursuant to 11 DCMR 3107.2, for a variance to allow an
21 addition to an existing nonconforming structure that does not
22 now meet the side yard requirements and will create a new
23 nonconforming rear yard under Paragraph 2001.3(b) and (c), and
24 a variance from the rear yard requirements of Subsection 404.1
25 for an addition to a detached single-family dwelling in an R-
26 1-B District at premises 3335 Quesada Street, N.W., Square

1 2010, Lot 15.

2 All persons wishing to testify in this
3 application, please rise to take the oath. Please raise your
4 right hand.

5 (Whereupon, the witnesses were sworn.)

6 MR. LYONS: Please be seated.

7 Will the applicant come forward?

8 MR. FRANKLIN: Madam Chair, before the applicant
9 does begin, I would like to state that I am personally
10 acquainted with the applicants and feel it incumbent on me to
11 recuse myself from participation in this case.

12 CHAIRPERSON HINTON: Okay, thank you, Mr.
13 Franklin.

14 Could you give your name and home address for
15 the record?

16 MR. ZIGAS: My name is Barry Zigas and my home
17 address is 3335 Quesada Street, N.W., in Washington.

18 MS. LEVIN-EPSTEIN: Jodie Levin-Epstein, 3335
19 Quesada Street, N.W.

20 CHAIRPERSON HINTON: Thank you. You may
21 proceed.

22 MS. LEVIN-EPSTEIN: What I'd like to do is very
23 briefly tell you, Madam Chair and Members of the Committee,
24 why it is we are seeking a variance.

25 We moved into our home in 1985. When we moved
26 in, I remember asking the person from whom we bought the home

1 why it was she was moving. She said "to get a bigger place."
2 I couldn't understand. We had two young children and we were
3 giving each of them a room, which they hadn't had. Though
4 then our children were small and they sat in our lap, and now
5 they're teenagers and they can't. Even if they could, they
6 wouldn't, and that is why we are here. We need to expand our
7 family room. We need it to be a room in which our family can
8 all be in together. We go in front of the television set and
9 our son, who is now 6'1" needs to stand up because there's no
10 room for him. So, that is basically why we are here.

11 We have gotten lots of support from our
12 neighbors. Nine of them have signed petitions in support, as
13 you'll see from the materials that you have. What you can't
14 know is the enthusiasm they have all expressed to me as I got
15 a chance to sit around kitchen tables and show our plans to
16 them, and their interest in having us stay as neighbors. And
17 that is, indeed, also part of our interest is to stay in the
18 same house. When we went to the ANC, they also unanimously
19 supported our request. Indeed, one of the members visited our
20 property and mentioned that at the ANC meeting.

21 So, in short, we really love our house. We love
22 our neighborhood and our neighbors. We wish to expand the
23 family room in order for us all to be able to stay in there
24 comfortably together. Thank you.

25 MR. RUBIN: Good morning. My name is Jeff
26 Rubin. I'm an architect. I've been working with Barry and

1 Jodie for about six to eight months now developing this
2 scheme. I'm going to go through a sort of a step-by-step
3 analysis of this project.

4 I'd like to first step over to the boards I have
5 here. Copies of these drawings should have been forwarded to
6 you. I'm going to basically describe existing conditions
7 first.

8 CHAIRPERSON HINTON: Thank you. We did receive
9 copies of the drawings.

10 MR. RUBIN: Okay.

11 The existing property is a fairly typical center
12 hall colonial. It was built in 1935. It's located on Quesada
13 Street in Northwest DC. The site itself is 3,680 square feet
14 in area and it is bounded by an alley along one side, an alley
15 to the rear, the street on the front, and an adjoining
16 property owner next door. As I mentioned, this house was
17 built in 1935. It is nonconforming due to the lot area.

18 One of our principal arguments is that this lot
19 is exceptionally small. That is really the crux of the
20 practical difficulty that we are presented with. This is an
21 R-1-B zone. R-1-B requires a lot area of 5,000 square feet
22 with 50 feet of frontage. Our lot is much smaller than that.
23 It's 3,680. It is only 46 feet wide and 80 feet deep. If you
24 take the R-1-B regulations and interpolate from them, a 5,000
25 square foot lot that's 50 feet wide would have to be 100 feet
26 deep. When you go and see the site, just as the ANC

1 Commissioner that represents an area saw it, the first thing
2 that strikes you is "wow, it's small." I assure you, this is
3 a small lot and I will demonstrate that.

4 We must demonstrate that there is something
5 exceptional about this piece of property that would afford us
6 an opportunity to get a variance. The term "exceptional" is
7 an important issue here. When we get into a zoning
8 definition, we must refer to Webster's Dictionary for that
9 word "exceptional." I would just like to read to you what
10 that exact word means. It's important to our case.
11 Exceptional is "being out of the ordinary; uncommon; better
12 than average; superior."

13 It's important for the Board to understand, we
14 do not have to be the most exceptionally small lot in
15 Washington to afford the opportunity to get a variance. We
16 just have to demonstrate that we are out of the ordinary, that
17 we are uncommon. To that end, I would like to give you a
18 Sanborn map which is actually taken from the Office of
19 Planning. As you're probably familiar, a Sanborn map
20 basically is a large site plan of the neighborhood. When I
21 first looked at this project, what struck me was how small and
22 shallow this lot is. I have done a further analysis
23 of that which I'd like to explain to the Board members. The
24 Sanborn map you see shows our site which is highlighted in
25 yellow with a little bit of red on it. It says "site." I
26 hope you can relate that to the site plan up here. The dotted

1 area and the heavy black line represents the six full squares
2 which are included on the Sanborn map taken from the Office of
3 Planning report. There are 226 lots within this area.

4 In yellow are highlighted lots which are equal or
5 smaller in size. You will see there are very few in this
6 general neighborhood. As a matter of fact, there are only 14.
7 That means that out of 226, there are only 14 that are smaller
8 and equal. Many of these are approximately the same size. I
9 think if you look at the perimeter of this drawing, you'll see
10 other lots which are also larger. It is my opinion, if we
11 begin to extrapolate this, you will find that a lot that's
12 3,680 in an R-1-B zone in this general vicinity is, indeed,
13 exceptionally small per the exact definition of Webster's.
14 Remember, we don't have to be the smallest. We just have to
15 be uncommon or out of the ordinary.

16 If you will notice, in our particular block
17 directly adjoining our property, there are several other
18 properties highlighted. These properties are basically the
19 same size or slightly smaller than ours. I just want to make
20 a point to the board. The fact that a lot next door may be
21 the same size or smaller does not mean that that lot, indeed,
22 also, is not exceptionally small. Again, we don't have to be
23 the smallest in the whole neighborhood. We just have to be
24 uncommon or out of the ordinary. So, I don't want you to be
25 mislead because the next door neighbor's lot is the same size
26 saying, "hey, you can't get a variance. The next door

1 neighbor is the same size." So, I'd like to establish, we are
2 an exceptionally small lot and that falls definitely within
3 the criteria of the zoning regulations.

4 Now, the second step to this is we have to
5 demonstrate a practical difficulty. Okay, we've got this
6 small lot. That's not enough. We have to show because the
7 lot is so small, it presents my clients with a practical
8 difficulty in a reasonable development of the property.
9 Again, this is the site plan. The manilla is the existing
10 site plan. This is the house with a prior addition and a
11 garage back here. Again, I want to note what, in fact, is a
12 land-locked lot surrounded by alleys on two sides, another
13 unique characteristic. Of the 14 lots in this general area,
14 it is the only one that is surrounded by two alleys thereby
15 denying any opportunity to purchase additional property or in
16 any other way expand the property to conform to zoning
17 regulations.

18 I'd like to direct you to the existing floor
19 plan of the house. This is the first floor. We enter through
20 the center. There's a living room here, dining room, kitchen,
21 and existing -- I wouldn't use the word "family room." It's a
22 very small room. I guess you could call it a den. I don't
23 want to mislead you with the power of what a word means. It's
24 a room and it's small. It was added in the '60s or '70s, I
25 believe. Upstairs are three bedrooms and two bathrooms. In
26 addition, there is a garage at the rear of the property. From

1 a zoning perspective, it's a storage building. It's too small
2 to technically meet the criteria for a parking spot.

3 Now, what we are proposing to do is shown in
4 this site plan. We propose to tear down the garage, which is
5 here, and to tear down the previous addition. In its place,
6 we'll build a two-story structure that you see in the floor
7 plans here. This would create a new family room, a breakfast
8 area, a kitchen and a powder room. Upstairs, we would enlarge
9 one of the bedrooms, add some closet space which is sorely
10 needed in these houses, and a master bathroom.

11 Now, I looked at this project initially for a
12 matter of right solution. It's certainly my preference to do
13 that. It is a time consuming process to come before the Board
14 and I'd rather just be able to design it without a variance,
15 but I found I could not do it. Our matter of rights solution
16 allows us, I believe, 11 feet of projection into the rear
17 yard. We've already got this previous addition that is ten
18 feet and it is impractical for them. You've heard them say
19 that. I've been over there. It's just too small to use. As
20 further evidence of that, we're willing to tear it down in
21 order to get something that makes sense to build.

22 What I've shown is a family room here that the
23 exterior is 16 feet and it's about 15 feet wide. I feel that
24 is a reasonably sized room for this neighborhood. That's
25 based on my experience in working in this neighborhood
26 personally, many times, in a practice that's devoted solely to

1 remodeling houses. I do not believe we can have a decent
2 family room in 11 feet of exterior space which translates to
3 10 feet 7½ inches of interior space. I think all of you have
4 a good feeling for distances. Ten-and-a-half feet is not a
5 whole lot of room. These five feet are critical to us. Five
6 feet is not a lot to ask. It seems minor, but it is very
7 critical to this project.

8 In addition, upstairs, we didn't need the space. I have then
9 set the addition back. So, the upstairs part really doesn't
10 need a variance. It's the first floor where it is critical.

11 If you look at the elevations, this is the alley
12 side of the project. This is the rear. This is the opposite
13 side. You can see how this first floor addition does project
14 out into an area we would need a variance for. The second
15 floor has been recessed back. We didn't need it there. Also,
16 by stepping it back, it provides additional light and air for
17 the neighboring properties. It also affords, I think, a more
18 aesthetically appealing design. Instead of having a straight
19 rigid face at the rear, we've stepped it back. It's good for
20 everybody. Just as tearing down this garage, which is barely
21 usable, is also good for the immediate community. I feel this
22 project definitely qualifies under the technical guidelines as
23 a practical difficulty.

24 Now, there is a couple other criteria here. Are
25 we going to impair the intent of the planning and zoning
26 regulations? It is my opinion we are not. This will still

1 remain a single-family home. Barry and Jodie are going to
2 live there with their sons. That isn't going to change. The
3 variance that we're requesting is a modest variance. It's
4 five feet. I have done other projects of this nature in this
5 immediate neighborhood with small, modest variances to
6 overcome these small lots. It's extremely helpful to get
7 these few extra feet to make these things work.

8 Lot occupancy is very important. We are 33
9 percent today. We're only going to 37½. Again, a very modest
10 incremental increase. We are still under the 40 percent
11 allowable. The reason that lot occupancy is still so low is
12 because we're tearing down the old garage. So, we're taking
13 something down to build more, but the amount we're building
14 more is very small and modest.

15 Finally, will it be a detriment to the public
16 good? I think this is extremely part of this particular
17 project. Barry and Jodie have spoken with all of their
18 immediate property owners. They have signed a statement of
19 support. In addition, several other neighbors have signed
20 statements of support. The ANC has voted unanimously to
21 approve this. One of the ANC Commissioners personally went
22 out and looked at the property. We also have a letter from
23 the City Councilwoman from Ward 3 in support. That should
24 have been in the file and it was faxed down yesterday. If it
25 is not in the file, I have copies here for you.

26 I believe for all these reasons, this is not

1 going to be a detriment to the public good. There is no
2 opposition that I am aware of on this project. I think that
3 concludes our initial presentation for now.

4 CHAIRPERSON HINTON: Thank you.

5 Do Board Members have any questions? No?

6 Could you go over two things for me: the
7 interior dimensions of the existing room that's used as a
8 family room and your proposal for that family room?

9 MR. RUBIN: Let me get that plan up there.

10 The existing room is approximately -- it's 10
11 feet on the exterior, less the wall's thickness. So, it's
12 about 9'7½ inches on the interior. The width this way is
13 about 21 feet with a small powder room there. That's what's
14 there now. We're proposing to add a new family room which
15 will be about 15'6" one way and about 16 feet the other way.

16 CHAIRPERSON HINTON: Okay, thank you.

17 Office of Planning report, please?

18 MR. BASTIDA: Madam Chairperson, Members of the
19 Board, for the record, my name is Alberto Bastida with the DC
20 Office of Planning.

21 The Office of Planning submitted its report on
22 March 12th. The Office of Planning believes that there is
23 nothing exceptional about the property to justify the
24 requested variance that results into a practical difficulty.
25 The applicant could build a smaller matter of right addition
26 with a 355.6 square foot -- 11 feet by 32.33 feet rather than

1 the 517.28 square foot frame, 16 by 32, 33. It would still be
2 afforded a sizeable first-floor family room and kitchen and a
3 second floor bedroom, den and master bathroom.

4 Specifically, the matter of right addition could
5 provide a family room measuring approximately 11 by 11 and a
6 kitchen and breakfast area measuring approximately 15'5" by 14
7 feet. The second floor portion of such an addition could be
8 built as currently proposed since it would meet the rear yard
9 depth requirement. In addition, the applicants could retain
10 the existing garage and continue using it for storage as a
11 matter of right if the smaller addition is built.

12 Area impacts: based on the opinion of the
13 residents of the area, the Office of Planning believes that
14 the proposal will not have any area impacts. The Office of
15 Planning believes that the impact that the proposal that
16 requires an intrusion into the rear yard will have a negative
17 impact in the intent purpose and integrity of the zone plans.
18 Accordingly, the Office of Planning recommends that the
19 applicant build a matter of right addition.

20 The Office of Planning would like also to point
21 out that the applicant is building, and is not part of this
22 application, a small cover entrance to the house that it will
23 enhance the front facade of the house and will provide
24 additional square footage of cover. Accordingly, the Office
25 of Planning recommends the denial of this application.

26 That concludes our presentation. If you have

1 any questions, I will try to answer them. Thank you.

2 CHAIRPERSON HINTON: Are there any questions?

3 MS. RICHARDS: No, I have none. That was quite
4 concise.

5 CHAIRPERSON HINTON: Okay, I have no questions.

6 Any members of the ANC here? I see none. We
7 have a letter in the record from ANC-3G which --

8 MR. LYONS: Madam Chair, I'm sorry to interrupt.
9 The applicant, I don't know, was afforded an opportunity to
10 cross examine OP.

11 CHAIRPERSON HINTON: Would you like to?

12 I'm sorry, you're right, yes.

13 MR. RUBIN: I would like to simply address the
14 OPP report in my closing statement if that is okay?

15 CHAIRPERSON HINTON: Thank you. Yes.

16 The ANC report. We have a letter from ANC-3G in
17 the record. We also have nine letters of support from
18 neighbors and we have no opposition, other than the Office of
19 Planning.

20 Closing remarks?

21 MR. RUBIN: Just as a technical matter, I just
22 want to clarify this. In fact, I do not believe that it's
23 considered opposition in the sense of someone else. In other
24 words, I do not believe that it means opposition -- the fact
25 that his report has been read in that manner.

26 CHAIRPERSON HINTON: They're not a person in

1 opposition.

2 MR. RUBIN: Exactly. I believe there is a
3 distinction though. I think that's an important distinction.
4 That's all. I just want to make that point. Thank you.

5 I'm going to address this report because I think
6 it's key to your understanding this project. We disagree on
7 this. I must admit this very conclusive evidence I have here,
8 when I met with Mr. Bastida, I did not have it. I had not
9 looked at it. To me, the project was, very simply, so small I
10 didn't need to go to those kind of lengths to prove it. I
11 then went into very careful analysis of it which you see
12 before you.

13 At Mr. Bastida's urging, I looked up the
14 definition of exceptional from Webster's Unabridged Dictionary
15 because I wanted to get right to the point of this matter. I
16 don't want the OP report to dissuade you. This is really a
17 question for the Board to determine, not OP. I feel that this
18 site plan I've shown you is dramatic evidence that we are, in
19 effect, an exceptionally small lot. We don't have to be the
20 smallest. You just have to be uncommon and out of the
21 ordinary. I feel we've shown that.

22 I feel we've also shown that the existing house
23 with that modest addition in the back, it just doesn't work.
24 We're willing to tear it down. And that OP, in their report,
25 says that they felt a family room that's 11 by 11 would be
26 adequate. Now, I ask you, in this neighborhood to have a

1 family room to gather your family in the room that is the size
2 of a bedroom, I feel it's reasonable to want something a
3 little bit bigger. I really do.

4 If we follow the OP recommendation, this would
5 be our matter of right solution. If we left the garage up,
6 which they recommend, we would be just a couple feet away from
7 it. You'd be looking right out at the garage. Furthermore,
8 the garage just takes up more of the rear yard. To me, that
9 type of solution does not make any sense. It would be better
10 to tear that garage down and build out a little further,
11 providing more openness for Jodie and Barry, and everyone in
12 the neighborhood. I think it's a better solution. I really
13 do. I think it meets all the technical criteria that you need
14 to approve it.

15 I hope I've addressed the OP remarks and have
16 alleviated any concern you may have about that. I do believe
17 we've met the technical criteria. We've carried the burden of
18 proof on this.

19 Finally, I want to mention the ANC vote. The
20 Board is instructed to give that vote great weight by written
21 instructions. I ask that the Board give that vote great
22 weight, and also take into account the immediate neighbors.
23 The people that are directly are all in favor of this. I
24 think it's a good project and I hope that you can support it.

25 Jodie, do you have anything to add, or Barry?

26 MR. ZIGAS: I would just like to address the

1 group and just say that, you know, we've lived in this house
2 since 1985. We love living in the neighborhood. We're active
3 in the neighborhood. Our kids were active in all three
4 schools that serve the area because our kids either have been
5 in the schools or are currently in the schools. We're active
6 in the life on the street with other neighbors.

7 As Jeff said, when we began this enterprise, we
8 really weren't looking for an excuse to ask for a variance or
9 go through a lengthy process and we really did struggle with
10 what could be done. But the impulse behind our doing the
11 planning and approaching Jeff to help us with it was because
12 the current room simply does not meet our needs. Adding one
13 other foot isn't going to make a difference one way or the
14 other.

15 So, we looked for a solution that would be
16 economical in terms of what was needed, that would meet our
17 needs, and we thought would be a good design solution and that
18 would meet with the approval of our neighbors. And as you've
19 heard, all of them not only approve of it, but they're kind of
20 excited that we're going to do it. So, for us, this is really
21 a matter of giving us the ability to fully enjoy the property,
22 to stay in a house that we like in a neighborhood we love, and
23 to utilize the space as effectively as we can as a family room
24 which was really what that space was intended to be.

25 The other solutions that we've been through with
26 Jeff, frankly, aren't worth the trouble. It's just, you know,

1 to get that extra space, as the OP has suggested, is not worth
2 what it would take to get. We seriously looked at it and
3 decided it's not. So for us, this is the right solution. I
4 think it's a good solution for the community and one that we
5 hope you'll approve.

6 Thanks for the opportunity.

7 CHAIRPERSON HINTON: I have one question. How
8 is the garage used now? It's not a garage, but--

9 MR. ZIGAS: The garage is used just for storage.

10 CHAIRPERSON HINTON: It's a storage. It's not
11 used to park --

12 MR. ZIGAS: No, it's impractical, I think, in
13 terms of location for really being a car garage, but also,
14 it's a small garage. I mean, our car probably wouldn't even
15 fit in there now. We've never tried to use it as a garage. I
16 think the previous occupants also used it as a storage. You
17 know, it's valuable to us as storage, but it has no other
18 function.

19 CHAIRPERSON HINTON: Okay, thank you.

20 MR. BASTIDA: Madam Chairperson?

21 CHAIRPERSON HINTON: Yes?

22 MR. BASTIDA: I just would like to make a
23 clarification, if I may?

24 CHAIRPERSON HINTON: Yes.

25 MR. BASTIDA: When I met with Mr. Rubin, I said
26 an exceptional condition that results in -- let me restate it

1 -- that deprives the applicant of a reasonable use of the
2 property. So, the word exceptional by itself is not to be
3 taken aside. It's exceptional in conjunction with the
4 reasonable use of the property.

5 CHAIRPERSON HINTON: Exactly.

6 MR. BASTIDA: I just wanted to clarify that.
7 Thank you.

8 CHAIRPERSON HINTON: Very good. Thank you.

9 MR. RUBIN: Can I make one very quick remark?

10 CHAIRPERSON HINTON: We really are --

11 MR. RUBIN: In light of the fact there is no
12 actual opposition, if the Board would consider a bench
13 decision, we would appreciate it.

14 CHAIRPERSON HINTON: Sure.

15 MR. RUBIN: Thank you.

16 CHAIRPERSON HINTON: Very good. Okay.

17 Board members, are you ready to decide?

18 MS. RICHARDS: I think so, yes.

19 CHAIRPERSON HINTON: Yes.

20 Ms. Reid, are you ready?

21 MS. REID: Well, I believe I have a question in
22 regard to -- issue.

23 CHAIRPERSON HINTON: A question that you'd like
24 the Board to talk about?

25 MS. REID: Right.

26 CHAIRPERSON HINTON: Would you want to do that

1 now?

2 MS. REID: Well, we could. We could.

3 CHAIRPERSON HINTON: Okay.

4 MS. REID: Prior to making a decision.

5 MS. RICHARDS: Why can't we do that in context
6 of discussion on a motion? I'm willing to make a motion.

7 MS. REID: Okay.

8 CHAIRPERSON HINTON: That sounds good. While
9 it's all fresh in our minds, why don't we attempt to deal with
10 it?

11 MS. REID: Okay.

12 MS. RICHARDS: I'll move approval.

13 CHAIRPERSON HINTON: I'll second for the sake of
14 discussion.

15 Go ahead.

16 MS. REID: Well then, that's okay. My question
17 was in regard to how we were going to weigh the practical
18 difficulty issue and I was leaning toward a favorable
19 response. I didn't know how the other Board members felt
20 about it. So, it's a moot point now.

21 CHAIRPERSON HINTON: Okay.

22 MS. RICHARDS: I'm willing to address the
23 practical difficulty element. I think that the size of the
24 lot speaks for itself. It's a substandard lot. I've always
25 approached the test as once we've determined that there is an
26 unusual or exceptional condition of that sort, then rather

1 than trying to dictate the specific limits of the relief, I
2 just look to see whether the relief that's been proposed to us
3 is reasonable. This seems reasonable.

4 MS. REID: I concur with that reasoning. I also
5 want to add that in looking at the amount of space that
6 they're willing to forfeit in order to achieve the space they
7 need for the addition, to me seems to be a very fair and
8 usable compromise. Because the space that they're asking for
9 is just a little bit larger than what they're compromising for
10 the garage. As well as the fact that I was impressed by the
11 fact that they're willing to set back the upper level to be
12 able to afford more open space for that particular property as
13 well as, I'm sure, to appease the neighbors. That's all I
14 wanted to say.

15 CHAIRPERSON HINTON: Okay, very good.

16 I guess I also agree. Because this is a shallow
17 lot, the depth of the addition that can be placed here is
18 limited. It's limited to 11 feet. When we look at that 11
19 feet and the internal size and configuration of the rooms that
20 that would allow, I agree that an 11 by 11 family room is
21 substandard. It is unusually small and probably unreasonably
22 small.

23 There are two variances here. The first one,
24 which is an addition to a nonconforming structure that does
25 meet the side yard requirements, that variance would be needed
26 for any addition, at least the way I'm understanding this. If

1 you continue the sides of the structure straight back, you
2 would be extending the nonconformity of the side yards. You
3 would need --

4 MR. BASTIDA: Madam Chairperson?

5 CHAIRPERSON HINTON: -- you would need that
6 variance. And so, the other variance is the five foot into
7 the rear yard which we'll still have 15 feet.

8 MR. RUBIN: It's 20.

9 CHAIRPERSON HINTON: Twenty feet, thank you.

10 Twenty feet. In addition to the fact that
11 there's an existing structure that's going to be removed. So,
12 the change in the actual amount of open space in the rear yard
13 almost seems to balance.

14 Now, Mr. Bastida, did you have something to say?

15 MR. BASTIDA: Right. The side yard paragraph --
16 and I can look at the zoning regulations -- allow -- if the
17 property was built prior to 1958 and the side yard is at least
18 five feet in width, they can add it as a matter of right and
19 remain with the five feet. They can not decrease it. But
20 they can build it as a matter of right. So, a matter of right
21 addition would not require a deviation from the side yard.

22 CHAIRPERSON HINTON: So, the first variance is
23 for creating a nonconforming rear yard. It only deals with
24 the rear yard.

25 MR. BASTIDA: Because they are not doing a
26 matter of right, it triggers the other one. Let's say if they

1 were to build a matter of right addition, then the side yard
2 variance is not required.

3 CHAIRPERSON HINTON: Even though the depth of
4 the side yard is going to change?

5 MR. BASTIDA: That is correct.

6 CHAIRPERSON HINTON: Okay, very good.

7 MR. BASTIDA: Because of the side yard, you
8 know, requirements.

9 CHAIRPERSON HINTON: Yes, very good.

10 I think we're ready to vote unless there's
11 anything else that we want to say?

12 We've moved and seconded. All those in favor?

13 ALL: Aye.

14 CHAIRPERSON HINTON: Opposed?

15 (No response.)

16 MR. LYONS: Staff would record the vote as being
17 3 to zero to approve the application. Ms. Richards, Ms.
18 Hinton and Ms. Reid to approve; Mr. Franklin not voting having
19 recused himself; Mr. Clarens not present and not voting.

20 MR. RUBIN: Thank you very much.

21 MR. LYONS: And I assume we can issue a summary
22 order in this case?

23 CHAIRPERSON HINTON: Summary order.

24 We are adjourned until the afternoon.

25 (Whereupon, the meeting was recessed at 1:01
26 p.m., to reconvene later this same day.)

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1 staff will specify at the end of the hearing, exactly what is
2 expected.

3 The decision of the Board in these contested
4 cases must be based exclusively on the public record. To
5 avoid any appearance to the contrary, the Board requests that
6 persons not engage the Board members in conversation.

7 The Board will make every effort to conclude the
8 public hearing as near as possible to 6:00 p.m. If the
9 afternoon cases are not completed at 6:00, the Board will
10 assess whether it can complete the pending cases which remain
11 on the agenda.

12 At this time, the Board will consider any
13 preliminary matters. Preliminary matters are those which
14 relate to whether a case should or will be heard today, such
15 as requests for a postponement, continuance or withdrawal, or
16 any proper or adequate notice of the hearing has been given.
17 If you are not prepared to go forward with a case today or if
18 you believe the Board should not go forward, now is the time
19 to raise such a matter.

20 Does the staff have any preliminary matters?

21 MR. LYONS: None, Madam Chair, generally but
22 there is a request filed by an applicant, the applicant in
23 16216, Barbara Smith Coleman. It's a request for a
24 postponement.

25 Is a representative of Ms. Coleman present?

26 MR. GLASGOW: Madam Chair, for the record, my

1 name is Norman M. Glasgow, Jr., of the law firm of Wilkes,
2 Artis, Hedrick & Lane. We have submitted a letter to the
3 Board dated February 27, 1997, after discussions that we have
4 had with the single-member district representative and other
5 persons in the community, that we wanted to have a two month
6 postponement during which time the applicant would have
7 further discussions as to how to proceed in the case.

8 CHAIRPERSON HINTON: Very good.

9 We don't need to vote on this, do we?

10 MR. LYONS: No, ma'am.

11 CHAIRPERSON HINTON: And you've requested a two
12 month continuance or postponement?

13 MR. GLASGOW: Correct, yes.

14 CHAIRPERSON HINTON: Very good.

15 MR. LYONS: Staff would recommend May 21st at
16 2:00, the first case in the afternoon.

17 CHAIRPERSON HINTON: Very good.

18 Okay, that's the only matter that you had,
19 preliminary matter?

20 MR. LYONS: Yes.

21 The first case in the afternoon is Application
22 16213 of the Trustees for Harvard University, pursuant to 11
23 DCMR 3108.1, for a special exception under Section 210 for
24 further processing of an approved campus plan to allow
25 alterations and additions to the Director's house, the
26 Administration building and Fellows Houses C and D of the

1 Center for Hellenic Studies in an R-1-B District at premises
2 3100 Whitehaven Street, N.W., Square 2155, Lot 802.

3 All persons wishing to testify in this
4 application, please rise to take the oath. Please raise your
5 right hand.

6 (Whereupon, the witnesses were sworn.)

7 MR. LYONS: Please be seated.

8 CHAIRPERSON HINTON: Please give your name and
9 home address for the record and then proceed.

10 MR. WILLIAMS: My name is Richard Williams. I'm
11 an architect. My address is 1909 Q Street, N.W.

12 CHAIRPERSON HINTON: Thank you.

13 MR. BROOK: My name is Sam Brook. My address
14 would be the same, 1909 Q Street, N.W., Washington, DC.

15 CHAIRPERSON HINTON: Thank you. Okay.

16 MR. WILLIAMS: My name is Richard Williams. I'm
17 an architect representing the Trustees for Harvard University
18 today. Good afternoon.

19 I'd like to start off with a very brief history
20 of what the Center for Hellenic Studies is and what their need
21 in this particular case might be. The Center for Hellenic
22 Studies is a study center in ancient Greek studies, which
23 includes philosophy, literature, archaeology that's
24 administered by Harvard University. It's essentially composed
25 of fellows that come to Washington to this facility for one
26 academic year to pursue post-doctoral studies. That being the

1 case, most of them are in mid-career, potentially in their 30s
2 and 40s, working on a book, perhaps taking an absence from an
3 academic -- or seeking some other academic post.

4 The Center was founded in 1961 and has been
5 operating on this property since then. The buildings were
6 actually constructed and completed in 1963. Today, the Center
7 consists of ten fellows, two co-directors, some staff, and
8 occasionally, some visiting scholars that come to the Center.

9 Having been there for 35 years, they are
10 beginning to experience some growing pains. Their current
11 needs include a desire to expand the library which is pretty
12 much busting at seams at this point. They desire to add
13 additional stack space to see them well into the next century.
14 They've also been fortunate to expand their endowment to the
15 degree that they can now add two additional fellows, making a
16 total of 12 to come to the Center every year. They would also
17 like to be able to accommodate, or rather to provide
18 accommodations for visiting scholars on an occasional basis.

19 I'd like to actually stand and maybe describe
20 the site, and explain both the existing conditions and then
21 what our proposed solution might be.

22 CHAIRPERSON HINTON: That's good. You'll need
23 to use the microphone, but you can move that.

24 MR. WILLIAMS: Okay.

25 The Center is actually located on a 6½ acre
26 site. It's immediately to the north of Dunbarton Oaks Park

1 and it's immediately south of Whitehaven Street, which is a
2 dead-end street to the west of Massachusetts Avenue, just
3 beyond the Rock Creek Bridge which is currently being
4 repaired. It's bounded on the east by the new Italian Embassy
5 which is under construction, and to the west by the existing
6 Embassy of Denmark. Across Whitehaven Street, there are a
7 number of single-family residences. It is in the DR-1-A
8 District which may conflict with what you see on your actual
9 order, but I believe that has been confirmed by Ms. Bailey of
10 the Office of Planning.

11 CHAIRPERSON HINTON: Yes.

12 MR. WILLIAMS: We've been before the Board
13 before and it has always been reviewed under that
14 jurisdiction. So, I assume it hasn't changed.

15 The Center consists really of one major
16 administration building that houses its library and its
17 offices and studies for fellows, and then the rest is all
18 residential. This is the administration building here. There
19 are six small two-story cottages which flank the private entry
20 drive which comes off of Whitehaven Street. There's a house
21 for the directors themselves, and there's a suite of
22 apartments for unmarried fellows which our firm actually did
23 about three or four years ago and came before the Board at
24 that time. There's a small equipment storage shed and that
25 really comprises all of the structures on this site.

26 Having looked at a number of master planning

1 alternatives to accommodate these needs, the Trustees have
2 decided to pursue a fairly minimal, in our opinion, low impact
3 route which is to accommodate the additional fellows by
4 altering two of the single-family houses, houses C and D, and
5 converting them from single-family detached residences into
6 two-family detached residences; essentially, an apartment on
7 the lower level and an apartment on the lower level. In order
8 to accommodate the number of bedrooms they need, we propose
9 additions to both of these houses, single story additions,
10 that would result in a three-bedroom apartment on the lower
11 level which would be ADA accessible for House D, and a two
12 bedroom apartment on the lower level of House C. Both houses
13 would have two bedroom units on the upper floors.

14 The library expansion would perhaps be the least
15 impact of all from a zoning point of view. We would be taking
16 an existing courtyard at the main upper grade level -- this is
17 a building which is heeled into a hill, so it becomes a two-
18 story structure here, a single-story structure here. We
19 propose excavating the courtyard, extending the existing
20 stacks in that space, and then putting back a paved and skylit
21 courtyard above. So, essentially, no change in footprint, or
22 really, use for that matter. However, to also accommodate a
23 new elevator for ADA standards, an egress stair and some
24 expanded librarians' offices, we propose two fairly modest
25 corner additions that would be two-story. Essentially, it
26 would be an extrusion of the existing administration building,

1 so it's not a new architectural statement in any way.

2 Finally, we proposed to add to the director's
3 residence which consists of a two-story, main block and a
4 single-story wing. It has a garage and an apartment for a
5 border. We propose a second-story addition -- again, no
6 change in footprint -- to create two apartments for visiting
7 scholars.

8 We have some photographs that have been
9 submitted as part of the record showing the various components
10 of the Center. The predominant experience really are these
11 two-story cottages that flank the entry drive. This actually
12 is House D, one of the ones we are doing an addition to. This
13 is House C. This is the space between House C and House B
14 here.

15 This photograph shows the approach to the
16 administration building which here, is a single-story
17 structure. The two-story rear of that same building is the
18 library which faces the director's residence. This is the
19 existing courtyard of the administration building. It's
20 really just a lawn panel and some shrubbery around the edges.
21 The fellow studies and a corridor circulate around this
22 courtyard.

23 These are photographs of the director's
24 residence and its one-story wing. This chipboard model
25 represents the addition that we plan above that one-story wing
26 that already houses the garage. As you can see, every

1 structure at the Center is fairly consistent in terms of its
2 architectural treatment, painted white, either masonry or
3 stucco. We propose to keep very much within that same pallet.

4 We have some fairly detailed elevations and
5 architectural drawings. I don't know whether that is of
6 interest to the Board or not.

7 CHAIRPERSON HINTON: I think actually you've
8 given us enough detail and we do have the plans. They were
9 circulated.

10 MR. WILLIAMS: Okay.

11 CHAIRPERSON HINTON: So, we know where the
12 additions will be located.

13 MR. WILLIAMS: Let me just go back to the table.

14 In terms of the zoning criteria at the Center,
15 being in an R-1-A District, there is no FAR criteria but there
16 is a 40 percent percentage of lot occupancy. This is a very
17 low density campus. Currently, I believe, there is about 7.65
18 percent lot occupancy and we would be pushing that to 8.77,
19 well below the allowable limit. All the structures are two
20 stories or less, well under the 40 foot height limit
21 allowable. All the side yard criteria and rear yard are
22 easily met.

23 The parking is entirely accommodated on-site.
24 We do propose to add two additional spaces by extending one of
25 the -- Sam, perhaps you can actually show that on the site
26 plan -- by extending one of the sort of common parking lots

1 which is opposite the apartment structure that we did in 1992.
2 All told, I believe there are about 17 spaces currently and we
3 propose to increase that by two. There also are plenty of
4 opportunities at each of the residential driveways and there's
5 a garage at the director's residence to accommodate the
6 residence parking. So, in no instance, would we be spilling
7 out onto Whitehaven Street and require any off-site parking.

8 Harvard University does host a function at least
9 once-a-year where all incoming freshmen actually come to a
10 small party here. Even on those circumstances when there's
11 several hundred people, all parking is still accommodated by
12 just pulling off to the entry drive. So, I don't think that's
13 actually a factor.

14 Essentially, I could save this for final
15 remarks, but we feel that we meet the criteria for special
16 exception. We don't imagine that there is an adverse effect
17 or impact on our neighbors. The studious atmosphere of this
18 place and the low density is thoroughly in keeping with the
19 neighborhood in particular, and in R-1-A District in general.

20 Thanks very much.

21 CHAIRPERSON HINTON: Thank you.

22 Are there any questions from the Board members?

23 MR. FRANKLIN: I just have one just for
24 elucidation. Who are the Trustees for Harvard University?

25 MR. WILLIAMS: It's an administrative board that
26 sits at Harvard University.

1 MR. FRANKLIN: Well, the legal governance of the
2 University is the president and fellows at Howard University.

3 MR. WILLIAMS: Correct.

4 MR. FRANKLIN: Is this distinguished from that?

5 MR. WILLIAMS: Well, it is to some degree, and
6 unfortunately, the directors of the Center are out of the
7 country, aren't able to be here to better answer that
8 question.

9 MR. FRANKLIN: Oh.

10 MR. WILLIAMS: But the facilities of a like kind
11 are the various study centers at Dunbarton Oaks right across
12 the valley. They have a facility in Florence, Italy, and they
13 all operate under the aegis of an administrative board, the
14 Trustees for Harvard University. They're actually self-
15 endowed and self-supporting facilities, but the terms of their
16 deeds of land, in some instances and/or endowment in other
17 instances, required the administrative oversight of the
18 University. So, it's a special body. Ultimately, these
19 projects are approved by the president and the overseers, but
20 as a matter that's presented to them by the special trustees.

21 MR. FRANKLIN: I see. Okay. Thank you.

22 CHAIRPERSON HINTON: Okay. Are there other
23 questions? No.

24 Why don't we move to Office of Planning?

25 MS. BAILEY: Madam Chair, good afternoon.

26 Members of the Board, my name is Beverly Bailey with

1 the Office of Planning.

2 The Office of Planning is recommending
3 conditional approval of this application, Members of the
4 Board. For some light housekeeping chores, the project is
5 advertised as being in the R-1-B District. However, it's
6 actually zoned DR-1-A.

7 Secondly, since the facility was constructed,
8 the applicants have been to the Board on two previous
9 occasions, in 1987 and '93, for minor adjustments to the
10 campus. The project has been submitted to the Commission of
11 Fine Arts for review and that final decision is being awaited
12 the applicant. The ANC has voted unanimously to support the
13 application.

14 One of the things that the applicant -- we had
15 stated in our report is that a landscape plan was to be
16 provided. Did you happen to get a chance to submit that into
17 the record?

18 MR. WILLIAMS: Not before the Board. That's a
19 condition that the Commission of Fine Arts has actually
20 requested as part of -- perhaps I need to step back a minute
21 and explain.

22 MS. BAILEY: Well, if I can just finish and then
23 you can explain.

24 MR. WILLIAMS: Okay.

25 MS. BAILEY: I'm sorry.

26 Lastly, Members of the Board, the Office of

1 Planning is recommending that a campus plan be prepared for
2 this campus. Our reasons for doing so I'll just briefly
3 identify. Number one, other than the information that's in
4 the files, we have no comprehensive report on the site or on
5 the school. A campus plan is a requirement based on the
6 section of the regulations that the applicant is applying
7 under. It would gather all of the planning related documents
8 related to the site in one source. It would provide an
9 opportunity for the applicant to assess any future development
10 that may be warranted at the site. It would inform all
11 interested parties, the city, the neighborhood residents, the
12 community concerning the school's future development plans.
13 It would identify the built out of the site, and lastly, it
14 would provide a comprehensive composite of the history of the
15 site. All of this would be in one document.

16 So, in our view, it's important to gather all of
17 this information and put it in one place. Notwithstanding, we
18 understand that minor modifications have been made in the
19 past. I can't understand why one hasn't been prepared before.
20 I just know where we are now.

21 Based on that lengthy talk, again, we're
22 recommending approval of the application and I'll be pleased
23 to answer any questions that you may have.

24 CHAIRPERSON HINTON: Thank you.

25 Are there any questions? No. Seeing none --

26 Do you have any questions of the Office of

1 Planning?

2 MR. WILLIAMS: I'd just like to respond briefly.
3 We've had this conversation so this is not news to Ms. Bailey.

4 We are fully aware that this was in the R-1-A
5 District. We could not seem to convince the actual zoning
6 desk that that was the case, despite various meetings and
7 letters. So, I call upon the discretion and judgment of the
8 Board to clarify this matter.

9 Number two is that we actually did receive
10 concept approval from the Fine Arts Commission, but there was
11 a minor change in the plan regarding one of the houses since
12 that approval was granted back in July of this year. For that
13 reason, we have presented to the Commission -- which has
14 essentially decided to review this project mostly at the staff
15 level. And we're on their appendix item to their agenda
16 tomorrow. So, for that reason, a minor detail of this plan is
17 pending an approval that we anticipate receiving tomorrow.

18 CHAIRPERSON HINTON: Okay.

19 MR. WILLIAMS: And I concur with Ms. Bailey's
20 desire that perhaps an official campus plan need be submitted.
21 In the past, the two times we have been before the Board in
22 the past, this has been the way this small campus has been
23 interpreted. It was not conditional at those two times, but I
24 could see the wisdom in doing it from this point on.

25 CHAIRPERSON HINTON: Yes, okay.

26 Is there a landscape plan?

1 MR. WILLIAMS: Not at this time. There will be
2 as part of the final working drawing submitted to the
3 Commission of Fine Arts.

4 CHAIRPERSON HINTON: When do you think that plan
5 would be available?

6 MR. WILLIAMS: Probably June, July at this
7 point. The primary component that that plan would be
8 addressing would be the exact detailed planting of the
9 courtyard within the building, as well as potential foundation
10 planting at the additions to the administration building and
11 to the residences. Those of you who have been to the Center,
12 including Ms. Bailey, know that they actually maintain their
13 campus in an impeccable way. They have a crew of their own
14 landscape people. In the past, they've often done many of
15 these things themselves in an in-house manner, if you will.
16 But in this instance, because the Fine Arts Commission has
17 requested it, we will certainly be submitting this plan. I
18 did not know that that was a requirement for the Board as
19 well.

20 CHAIRPERSON HINTON: Generally, when we look at
21 site development if there are building additions, we also
22 review the site work at the same time and whether that changes
23 in grading, the removal or the addition of trees and shrubs.
24 We just generally look at it all together.

25 MR. WILLIAMS: I see.

26 CHAIRPERSON HINTON: Normally, the projects that

1 come before us are ready to go for a building permit --

2 MR. WILLIAMS: I see.

3 CHAIRPERSON HINTON: -- and that's what triggers
4 coming to the BZA. So, normally, projects have advanced that
5 far that the information is available.

6 MR. WILLIAMS: In our case, the construction is
7 not planned until about a year from now. We are really just
8 beginning our design development phase. So, in terms of the
9 normal sequence of work, architecturally, it's actually a
10 little premature for us to engage a landscape architect. We
11 would be delighted to submit the plan at such time, as a
12 matter of record.

13 CHAIRPERSON HINTON: Let me ask Ms. Bailey.
14 Did you find the site to be impeccably
15 maintained?

16 MS. BAILEY: Yes.

17 CHAIRPERSON HINTON: You did?

18 MS. BAILEY: Yes.

19 CHAIRPERSON HINTON: So, based on that
20 information, perhaps we could go ahead with the building
21 additions that we see and ask that the comprehensive landscape
22 plan be prepared as part of the campus plan that's going to
23 come later.

24 MR. WILLIAMS: Sure.

25 MS. RICHARDS: I have one question. I didn't
26 see any provision about permanent faculty housing. I suppose

1 there is none?

2 MR. WILLIAMS: There really is none. I mean, in
3 a sense, the fellows themselves are self-directed. They are
4 faculty, actually, as a rule themselves, at other
5 institutions. So, they're here really to take a sabbatical
6 and work on a research project. But there are visiting
7 lecturers that come in and they have special colloquia
8 throughout the year. But there really is no permanent
9 teaching faculty at all.

10 CHAIRPERSON HINTON: Okay. Any other questions?
11 Okay.

12 MR. BASTIDA: Excuse me, Madam Chairperson.

13 CHAIRPERSON HINTON: Yes?

14 MR. BASTIDA: I think that if the University
15 were to prepare a master plan prior to any potential future
16 development, that would address some of the concerns that the
17 Board has regarding master plan and so on because the
18 schematic would be there. It would be much easier if that
19 condition were to be attached to your order that social plan
20 would be prepared prior to any future development --
21 additional future development.

22 CHAIRPERSON HINTON: So, you have a
23 recommendation for a condition of campus plan within three
24 years of approval. Then we would add, or prior to any future
25 --

26 MR. BASTIDA: Development.

1 CHAIRPERSON HINTON: -- development proposals.

2 MR. BASTIDA: Yes. It would be better three
3 years, but since they are very conscientious in maintaining
4 this site, the Office of Planning would rather be lenient
5 rather than strict.

6 CHAIRPERSON HINTON: Oh, I see.

7 MR. BASTIDA: -- of their wonderful track
8 record. But it is very important that that master plan is to
9 be prepared prior to any other potential development.

10 CHAIRPERSON HINTON: Good idea. Okay.

11 Let's move to the ANC report. Is there anyone
12 here from the ANC? No.

13 We have two letters from the ANC in the record.
14 One from ANC-2E, which is where the facility is located. They
15 have offered their support. We have a letter from 3C which,
16 apparently, is adjacent to the property. They offer no
17 objection. Other than the ANC, we have no support or
18 opposition from any persons or parties. Okay?

19 MR. WILLIAMS: If I may, I believe that letters
20 of support were actually submitted as part of the record by --

21 CHAIRPERSON HINTON: Letters of support?

22 MR. WILLIAMS: -- by neighbors.

23 CHAIRPERSON HINTON: I'll look again.

24 MR. LYONS: They were just put before the Board.

25 CHAIRPERSON HINTON: Oh, oh, oh, right. You're
26 right. These are the ANCs. Okay.

1 Why don't you and Mr. Franklin take a look at
2 those?

3 MR. FRANKLIN: Yes, I have those in my packet,
4 yes.

5 CHAIRPERSON HINTON: We have letters of support
6 that because you're submitting them late, you're asking for a
7 waiver. The waiver is so granted. The letters are from
8 neighbors?

9 MR. WILLIAMS: Yes.

10 CHAIRPERSON HINTON: Okay. Oh, a total of six,
11 so that's seven. Seven letters of support.

12 MS. REID: On a letter of support, there is a
13 note and I can't really read that note. It speaks to impact
14 as far as --

15 MR. WILLIAMS: Is this from Mr. Henderson?

16 MS. REID: Yes.

17 MR. WILLIAMS: Yes.

18 MS. REID: Could you speak to that? First of
19 all, do you know what he's saying?

20 MR. WILLIAMS: Yes, I do know what he's saying.

21 MS. REID: Because I can hardly read it -- what
22 I see is, it says that things are totally out of hand down
23 here between the somebody and the somebody, constructions
24 workers, a gridlock. And asked that the construction crews
25 park on a lake Center property.

26 Can you address that please?

1 MR. WILLIAMS: Yes, I can.

2 Whitehaven Street does have some parking
3 problems on it, I think as a rule, because of the number of
4 embassies there and the staff for those embassies coming on a
5 daily basis. Under the best of circumstances, it has been
6 impacted. With the Italian Embassy currently under
7 construction, it is extremely impacted.

8 We will be working with a very reputable
9 construction manager, the firm of Whiting-Turner, on this
10 project. I can assure you, but we can make this a matter of
11 record, that all subcontractors, suppliers and personnel for
12 the constructor will, indeed, park on the premises. They've
13 planned to construct this during a five-month window of
14 opportunity when the entire Center will be shutdown.

15 CHAIRPERSON HINTON: Good.

16 MR. WILLIAMS: So, they will have complete
17 access to the entire campus and certainly, will be able to
18 accommodate all the parking needs within the campus itself.

19 MS. REID: Okay, I would like to note for the
20 record that Mr. Henderson initially stated, "I have no
21 objections to the changes as proposed." Then he made a
22 footnote with an objection.

23 MR. WILLIAMS: Right, but he knows --

24 MS. REID: I'm glad you clarified that.

25 MR. WILLIAMS: -- that he's talking to a friend
26 and not a foe in this matter.

1 MS. REID: Okay. I think that's good.

2 MR. FRANKLIN: His footnote was a plea.

3 CHAIRPERSON HINTON: Okay.

4 Do you have any concluding remarks?

5 MR. WILLIAMS: No, I don't believe so.

6 CHAIRPERSON HINTON: Are we ready to make a
7 decision, Board members? Great. How about a motion?

8 MR. FRANKLIN: I move approval, Madam Chair, in
9 accordance with the recommendations of the Office of Planning.

10 MS. RICHARDS: And I'll second that.

11 CHAIRPERSON HINTON: You would second that.

12 And I want to just make sure we're all reading
13 from the same page. We're going to condition our approval
14 that a campus plan be prepared and submitted within three
15 years, or prior to any future development proposals. And
16 let's make a second condition that all the construction
17 vehicles and employees of those companies will park on the
18 property.

19 MR. FRANKLIN: It's three years or before a
20 development proposal, whichever comes earlier.

21 CHAIRPERSON HINTON: Having a motion on the
22 floor, all those in favor?

23 ALL: Aye.

24 CHAIRPERSON HINTON: Opposed?

25 (No response.)

26 CHAIRPERSON HINTON: Thank you.

1 MR. LYONS: Staff would record the vote as being
2 4 to zero to approve the application. Mr. Franklin, Ms. Reid,
3 Ms. Richards, and Ms. Hinton to approve; Mr. Clarens not
4 present and not voting.

5 And the issuance of a summary order?

6 CHAIRPERSON HINTON: Yes, thank you.

7 MR. WILLIAMS: Thank you very much.

8 MR. LYONS: The last application of the
9 afternoon is numbered 16214 of Providence Hospital, DePaul
10 Foundation, pursuant to 11 DCMR 3108.1, for special exceptions
11 under Sections 205 and 206 to establish a child development
12 center of 150 students and 26 staff, and a private school of
13 150 students and 26 staff in an R-5-A District at premises
14 4401 Eighth Street, N.E., Square 3894, Lots 828 and 814.

15 All persons wishing to testify in this
16 application, please rise to take the oath. Please raise your
17 right hand.

18 (Whereupon, the witnesses were sworn.)

19 MR. LYONS: Please be seated.

20 CHAIRPERSON HINTON: Before we get started, why
21 don't we see if we can identify who would be interested in
22 being a party to the case.

23 Okay, is there any interest in the audience in
24 being a party, either in support or opposition? Party status
25 lets you participate more fully in the hearing and it requires
26 that you be notified of certain things. Those are the --

1 Yes, you are interested? Anyone interested,
2 please come up to the microphone.

3 The ANC is automatically a party. So, we're
4 looking for other than the ANC.

5 Please give your name and home address for the
6 record.

7 MR. ESHELMAN: My name is William Eshelman, 2300
8 M Street, Washington, DC, for the Institute of Our Lady of
9 Mount Carmel.

10 CHAIRPERSON HINTON: No, we have to talk about
11 why you want to be. Mr. Eshelman?

12 MR. ESHELMAN: Yes.

13 CHAIRPERSON HINTON: And what is your interest
14 in this case?

15 MR. ESHELMAN: Our interest is set forth
16 basically in the letter that I sent over Monday to the Board.
17 It relates to the use that is proposed to be placed on this
18 building. The fact that 1,000 square feet of this building
19 sit on property that's owned by the Institute itself. Also,
20 that the building is located and its longest length on a
21 private road that we share with Carroll Manor and Providence
22 Hospital.

23 CHAIRPERSON HINTON: Well, and you are --

24 MR. ESHELMAN: An attorney.

25 CHAIRPERSON HINTON: You represent the adjacent
26 property owner?

1 MR. ESHELMAN: Correct.

2 CHAIRPERSON HINTON: And that is the Institute
3 of Our Lady of Mount Carmel?

4 MR. ESHELMAN: The Carmelites.

5 CHAIRPERSON HINTON: The Carmites. Just the
6 Carmites? Was it wrong what I said?

7 MR. ESHELMAN: That is correct. We just call
8 them the Carmelites.

9 CHAIRPERSON HINTON: Very good. And you are in
10 support or opposition?

11 MR. ESHELMAN: I think at this point, we're
12 opposed to approval at this time.

13 CHAIRPERSON HINTON: Okay. We're going to grant
14 you party status.

15 MR. ESHELMAN: Thank you.

16 CHAIRPERSON HINTON: We'll abbreviate that as
17 the Carmelites. Is that okay?

18 MR. HEDGPETH: My name is Verne Hedgpeth. I
19 live right in the vicinity of this building. I believe it's
20 going to have a bad impact on the neighborhood with the
21 traffic.

22 CHAIRPERSON HINTON: Okay. Do you live within
23 200 feet of the property?

24 MR. HEDGPETH: I would say yes.

25 MR. LYONS: Your specific address?

26 MR. HEDGPETH: 4315 Tenth Street, N.E.

1 MR. LYONS: Kent?

2 MR. HEDGPETH: Tenth, eight, nine, ten.

3 CHAIRPERSON HINTON: Tenth Street, N.W. And
4 could you spell your last name?

5 MR. HEDGPETH: H-E-D-G- --

6 CHAIRPERSON HINTON: I'm sorry?

7 MR. HEDGPETH: H-E-D-G-P-E-T-H.

8 CHAIRPERSON HINTON: You need to identify how
9 your interest could not be represented by the ANC. How are
10 your interests different than what the ANC is?

11 MR. HEDGPETH: It's about the same, really.

12 CHAIRPERSON HINTON: Do you think that your
13 interests would be represented by the ANC?

14 MR. HEDGPETH: Pretty much, yes.

15 CHAIRPERSON HINTON: Okay.

16 MR. LYONS: Are they here?

17 CHAIRPERSON HINTON: Is the ANC here? Very
18 good. Would you be happy being part of represented by the
19 ANC?

20 MR. HEDGPETH: Yes.

21 CHAIRPERSON HINTON: Okay, very good.

22 And that goes for anyone else in line. If your
23 interests are similar to what the ANC is representing, then
24 you're part of their party.

25 MS. MASON: My name is Stacy Mason and I'm a
26 resident of Ward 5. I am president of Parents of the National

1 Child Day Care Association. My three-year-old daughter,
2 Chedale Young, has been a student at AZ Bates Center since
3 February 1996. During this time, I have seen my special
4 little girl develop and grow as a --

5 CHAIRPERSON HINTON: Okay, excuse me.

6 MS. MASON: Yes?

7 CHAIRPERSON HINTON: You'll have an opportunity
8 later to make a statement.

9 MS. MASON: Oh, okay.

10 CHAIRPERSON HINTON: Right now, we're trying to
11 find out, do you want to be a party? Do you need to be
12 specially notified of the results of this hearing? Do you
13 need to cross examine the other parties?

14 MS. MASON: I need to be specially notified.

15 CHAIRPERSON HINTON: Okay. You need to tell us
16 why.

17 MS. MASON: No.

18 CHAIRPERSON HINTON: Excuse me, you --

19 MS. MASON: No.

20 CHAIRPERSON HINTON: No?

21 MS. MASON: No.

22 CHAIRPERSON HINTON: Okay, are you in support or
23 opposition?

24 MS. MASON: Support.

25 CHAIRPERSON HINTON: You're in support. You'll
26 be able to speak as a person in support, okay?

1 MS. MASON: Oh, okay. Okay.

2 CHAIRPERSON HINTON: Very good, thank you.

3 MR. CAIN: Madam Chairman, my name is Bernard
4 Cain. I'm here to support the community. I'd like to reserve
5 any time, if I have any questions after hearing all the
6 testimony of the proponents.

7 CHAIRPERSON HINTON: You might want to be a
8 party later? Is that what you're saying?

9 MR. CAIN: Yes.

10 CHAIRPERSON HINTON: Do you own property within
11 200 feet --

12 MR. CAIN: In the District in Ward 5.

13 CHAIRPERSON HINTON: Within 200 feet of the
14 facility?

15 MR. CAIN: No, I don't.

16 CHAIRPERSON HINTON: Why can't your interests be
17 represented by the ANC?

18 MR. CAIN: I want to have the opportunity to
19 speak about anything I may hear at this hearing, that's all.

20 CHAIRPERSON HINTON: Well, you have an
21 opportunity to speak either in support or opposition.

22 MR. CAIN: Thank you. Thank you.

23 CHAIRPERSON HINTON: We're just trying to find
24 out who needs to be a party. We don't know yet.

25 MR. CAMERON: I'm David Cameron. I live at 1514
26 Jackson Street, N.E.

1 CHAIRPERSON HINTON: Is that near this site?
2 MR. CAMERON: Within five or six blocks from
3 there.
4 CHAIRPERSON HINTON: Five or six blocks.
5 MR. CAMERON: Yes.
6 CHAIRPERSON HINTON: Why are you seeking party
7 status?
8 MR. CAMERON: I just wish to come out in favor
9 of the National Child Day Care taking the project and I want
10 to note that --
11 CHAIRPERSON HINTON: Okay, you'll have an
12 opportunity to speak later.
13 MR. CAMERON: Okay, thank you.
14 CHAIRPERSON HINTON: Very good. Thank you.
15 So, we have --
16 MR. LYONS: It appears just two parties, Madam
17 Chair?
18 CHAIRPERSON HINTON: The ANC and the Carmelites.
19 MR. LYONS: That's correct.
20 CHAIRPERSON HINTON: Is that what you have?
21 MR. LYONS: Yes.
22 CHAIRPERSON HINTON: That's what I have. Very
23 good.
24 Okay. Ready to start.
25 MR. GLASGOW: Thank you, Madam Chairperson.
26 For the record, I am Norman M. Glasgow,

1 appearing on behalf of the applicant. The owner of the
2 property is Providence Hospital, the DePaul Foundation. We
3 are here presenting a case on behalf of the National Child Day
4 Care Association for the establishment of a private school for
5 50 students and 12 staff, and a child development center of
6 100 students and 40 staff for the building located at 4401
7 Eighth Street, N.E. So, I want to take a minute and make sure
8 that the Board understands we are modifying the application as
9 to the intensity of the request.

10 CHAIRPERSON HINTON: Would you repeat those
11 numbers?

12 MR. GLASGOW: Sure. It's 50 students and 12
13 staff for the private school as opposed to the 150 that's
14 advertised; and the child development center of 100 students
15 and 40 staff instead of the 150 students.

16 MS. RICHARDS: Okay, the first figures you gave
17 there were 50 students and how many staff?

18 MR. GLASGOW: And 12 staff.

19 MS. RICHARDS: Okay.

20 MR. GLASGOW: That's for the private school.
21 And for the child development center, 100 students and 40
22 staff. Those revised numbers of students and staff reflect a
23 change from what was originally submitted by the applicant but
24 the revision -- those revised numbers are reflected in the
25 applicant's statement which was filed March 5th, the Office of
26 Planning report that was previously filed, and the report of

1 the Department of Human Services. All those reflect the
2 revised numbers. So, they are all aware of what is presently
3 being presented today.

4 The site is slightly over one acre in size and
5 is presently improved with a structure containing
6 approximately 38,000 square feet of floor area which was
7 previously last used as a classroom and dormitory for the
8 Catholic University before its acquisition by Providence
9 Hospital.

10 Here with me today is Mr. Thomas Taylor, seated
11 to my far right, who is the chairman of the Board of Directors
12 of the National Child Day Care Association, and Mr. Travis
13 Hardman to my immediate right who is its executive director.
14 In addition, in the front row is Mr. Charles Bryant and he is
15 being submitted as the architect and a land planning witness.
16 I have a copy of his resumé. Mr. Bryant has been accepted
17 previously as an expert witness by the Zoning Commission but I
18 do not believe he has previously been accepted as an expert
19 before the Board of Zoning Adjustment.

20 The next witness will be Mr. Robert Morris,
21 traffic engineer, who has previously been accepted as an
22 expert witness by the Board. In addition, we will be
23 presenting as an expert witness, Mr. Richard Nero in Land
24 Planning. He has been accepted as an expert witness by the
25 Board. Lastly, we will be presenting as a witness, Mr.
26 William Davis of DBW Development Group, who is an expert in

1 financing and development of institutional properties. I have
2 a copy of his resumé for submission to the Board.

3 As the Board has seen from the line at the
4 microphone, there are a number of persons in support and in
5 opposition to the application. We are aware of that as we
6 were going through the process and those that met with the
7 ANC. Before proceeding with the testimony of the witnesses,
8 with the approval of the Board, I'd like to present a brief
9 opening statement as to the nature of the application.

10 CHAIRPERSON HINTON: That would be fine.

11 Could we get a sense of the time you expect your
12 presentation --

13 MR. GLASGOW: For our direct presentation, we
14 believe that it will take about 45 minutes to an hour.

15 CHAIRPERSON HINTON: And how many witnesses do
16 you have?

17 MR. GLASGOW: I believe it is six witnesses.

18 CHAIRPERSON HINTON: And that would be about an
19 hour for everybody?

20 MR. GLASGOW: That is correct.

21 CHAIRPERSON HINTON: Okay, very good.

22 MR. GLASGOW: We submitted a detailed statement
23 of applicant which is in the record, which I assume the
24 members of the Board have reviewed and are familiar with. We
25 plan on utilizing that. That is now part of the record. That
26 is part of our presentation and is part of the basis upon

1 which we submit that we've met the burden of proof. So, we're
2 going to try to elucidate and elaborate on that rather than
3 going back through specifically, everything that's in the
4 statement of applicant.

5 CHAIRPERSON HINTON: Good. We appreciate that.
6 We did receive your statement and we've all read it.

7 MR. GLASGOW: The application is filed pursuant
8 to Sections 205 and 206 of the regulations for relief to
9 establish both a child development center with 100 children
10 and 40 staff and a private school providing parent life skill
11 classes for 50 students and 12 staff at the subject property.
12 As we submit in there, we will review a couple of the exhibits
13 in the opening statement and then proceed on with the
14 witnesses.

15 The applicant has submitted that statement. The
16 proposed operator of the facility has over 30 years'
17 experience in the District of Columbia and the National Child
18 Day Care Association is the largest and oldest non-profit
19 child care provider in the city.

20 As will be testified to by the witnesses, the
21 building is quite large and is fully capable of meeting the
22 programmatic and regulatory requirements to operate the child
23 development center and private school on the property. We
24 have an acre of land, a 38,000 square foot building with
25 respect to the floor area. The property is located in R-5-A
26 zone and is within a large area encompassing Providence

1 Hospital and other institutional uses in the area with a
2 designation on the comprehensive land use map as
3 institutional. Mr. Nero will be covering that in detail
4 because we do believe that that is an important aspect of the
5 case. While we are zoned R-5-A, we are within -- the colors
6 that are on the land use map -- the blue area which designates
7 the institutional land use area on the comprehensive planned
8 use map.

9 Subject property is surrounded by institutional
10 uses on its north, east, west and due south frontages.
11 Residential use is diagonally and confronts the property at a
12 southeast frontage. At pages 7 through 17 of the statement,
13 that's where we go through all the detail as to how it is that
14 we meet the burden of proof for the special exceptions which
15 are requested.

16 Turning quickly to the exhibits, Exhibit A is
17 the Sanborn map of the subject property. It shows the subject
18 site outlined in red. You can see the institutional uses such
19 as the Carmelite Center, which is to the north of the subject
20 property; the Ethnic Fair Center which is to the west of the
21 site. Carroll Manor is located further north of the property.
22 Also, you have the Vincent Professional Building which is
23 shown as being to the southwest of the site. The residential
24 neighborhood is to the southeast of the property. So, it is,
25 in a sense, surrounded by almost all sides by institutional
26 uses.

1 Exhibit B is a copy of the zoning map showing
2 the subject site located within the R-5-A area. Those two
3 large blocks of property shown on the map, that is where the
4 institutional designation is on the comprehensive plan land
5 use map, where you see that there are almost no streets or any
6 other protrusions into those pieces of the site. So, we are
7 within that institutional area and Mr. Nero will exhibit a
8 copy of a portion of the comprehensive plan land use map
9 depicting that.

10 CHAIRPERSON HINTON: Which two large blocks are
11 you referring to?

12 MR. GLASGOW: Where it shows R-5-A, this piece
13 on the north of Barnum and this piece on the south of Barnum
14 Street are both designated in the institutional land use
15 category.

16 CHAIRPERSON HINTON: Thank you.

17 MR. GLASGOW: Exhibit C just shows an outline of
18 the site. As we said, it's over an acre in size. D is the
19 memorandum of Mr. Nunley which we have modified with respect
20 to today's application, so that it's a total of 50 students,
21 100 in the child care center and not 150 of each.

22 Photographs of the subject property are
23 included. The subject building will remain and be
24 rehabilitated and converted to the use for the child care
25 center and the school. Mr. Bryant will cover that. Outlines
26 of testimony are Exhibits F and G. H is the traffic report of

1 Mr. Morris. He will be dealing with that. Then Exhibit I is
2 a fax sheet concerning the National Child Day Care
3 Association. We have a letter attached as Exhibit J from
4 Council Member Thomas in support of the application. Our site
5 plan that we are requesting approval of today in connection
6 with this application is Exhibit K.

7 You will notice as a part of that site plan, on
8 the east frontage, there is a piece of the applicant's
9 building which protrudes on to the site that's owned by the
10 Carmelites. You will also note that we are showing no access
11 or parking off of that eastern frontage. Hopefully, that will
12 address some of the concerns that exist. Our parking area is
13 in our side yard on the west frontage and in our rear yard.
14 We will not be using any access over the eastern frontage of
15 the property. The portion of the building that protrudes on
16 to the Carmelites' property is permitted by recorded
17 instrument to remain. We are not going to be utilizing or
18 touching that portion of the property.

19 CHAIRPERSON HINTON: I don't understand
20 "recorded instrument to remain".

21 MR. GLASGOW: There's a recorded instrument. We
22 don't believe title issues are necessarily properly before the
23 Board. But in the event that they are raised, there is an
24 instrument that was recorded in the recorder of deeds dated
25 December 21, 1989, recorded with the recorder of deeds
26 February 5th of 1990 which as an attachment has an

1 encroachment condition. It states that "the grantee accepts
2 the above described property subject to the encroachment onto
3 such property by the building owned by grantor" -- that is the
4 predecessor in interest to the applicant here -- "that is
5 shown on a certain survey by Land Tech Associates." That is
6 the 30 foot piece of building that has been sitting for a
7 period of time on the Carmelites' piece of property. This
8 building was originally constructed in the early 1900s.

9 MR. FRANKLIN: Who is the grantee in that
10 document?

11 MR. GLASGOW: I knew as soon as I folded this
12 up, I would need to find it again. Hold on one second. Okay,
13 I have it in front of me.

14 The document is entitled "Easement. This
15 easement is made as of the 21st day of December, 1989, by and
16 between the Catholic University of America as the grantor, and
17 the Institute of the Sisters of Our Lady of Mount Carmel," or
18 Carmelites, as the grantee.

19 CHAIRPERSON HINTON: So, in laymen's terms, the
20 ownership of the lot was going from Catholic University to the
21 Carmelite Sisters. Is that right? The Carmelite Sisters were
22 acknowledging that this existing building that is mostly on
23 the adjacent lot actually overhangs the property that they
24 were purchasing?

25 MR. GLASGOW: Well, they acknowledge in this. I
26 don't know when the actual conveyance occurred to the

1 Carmelites. But through this easement, they're acknowledging
2 that there is a piece of the building that Catholic University
3 was using at that point in time, evidently, as part of its
4 classroom and dormitory facility was on the Carmelites'
5 property. All right, they acknowledge that through the
6 Exhibit B which talks about encroachment conditions of that
7 recorded document.

8 CHAIRPERSON HINTON: Okay, sure.

9 MS. REID: Now, I'm confused here because are
10 you saying that the Carmelites received from Catholic
11 University, an easement? It's a recorded easement, or is it
12 actually an encroachment?

13 MR. GLASGOW: Yes, there's a recorded easement
14 that reflects that there is this encroachment. Where there's
15 an acknowledgement that this encroachment exists.

16 MS. REID: Okay, that's where I was confused. I
17 got a little confused here when you were calling the actual
18 land or the actual part of the property that goes beyond the
19 property line as an encroachment. I guess it's just a matter
20 of terminology. But in essence, what you're saying is that
21 they have easement to be there?

22 MR. GLASGOW: Yes. Yes. They have recognized
23 that this will remain.

24 MS. REID: Okay. Okay.

25 CHAIRPERSON HINTON: There's an easement and
26 does the easement address the use of the building?

1 MR. GLASGOW: No.

2 MS. REID: Did you submit the actual instrument
3 as a part of your application?

4 MR. GLASGOW: No, we did not. We have
5 anticipated that a title issue may be raised. We don't
6 believe that it is properly before the Board. It's really for
7 the parties to address if there's a title issue. But to the
8 extent that it is relevant or that there is an issue, there is
9 this document which states that this encroachment may remain.

10 MR. FRANKLIN: Well, it may become relevant in a
11 sort of indirect way, Mr. Glasgow, because as I read the
12 letter in opposition, or apparently in opposition from the
13 Carmelites, they are raising the matter of title in such a
14 fashion as to suggest that unless that is satisfied to their
15 satisfaction, they may continue to oppose, you know, the
16 application.

17 I agree with you. I don't think that this Board
18 sits to resolve title disputes. But it might be useful if we
19 had that particular document in the record so we might be able
20 to refer to it, you know, as needed.

21 MR. GLASGOW: Right. I introduce it into the
22 record for whatever purposes it may serve with respect to this
23 proceeding.

24 MR. FRANKLIN: Right.

25 MR. GLASGOW: We have also amended our
26 application because of our concern about eliminating that

1 issue that there is no portion of the building that encroaches
2 will be used for other than matter of right purposes. So, the
3 building is large enough that we can utilize our programs and
4 facilities in the other portions of the building that are not
5 part of the encroachment.

6 CHAIRPERSON HINTON: I believe that's in the
7 record in your statement.

8 MR. GLASGOW: Yes.

9 CHAIRPERSON HINTON: Yes.

10 MR. GLASGOW: All right. We have attached a
11 series of orders in which similar relief has been granted. If
12 there are no further questions from the Board members, I'd
13 like to proceed with the testimony of the witnesses.

14 CHAIRPERSON HINTON: All right. And what I
15 would like to do to hopefully move the hearing along as
16 quickly as possible, I would like to have all of your
17 witnesses give their testimony. Then we will have Board
18 questions at the end of all of the witnesses, okay?

19 MR. GLASGOW: Thank you, Madam Chair.

20 I would like to call the first witness, Mr.
21 Thomas Taylor.

22 MR. TAYLOR: Good afternoon. I'm Thomas Taylor
23 and president of the Board of the National Child Day Care
24 Association.

25 I'd like to say that 33 years ago I got started
26 in this program. There were a group of citizens that were

1 very interested in the condition of child day care in the
2 District of Columbia at that time. The Head Start Program was
3 just beginning and we formed a group called the Child Day Care
4 Association. I was appointed the first executive director.
5 We developed programs which we felt were good for young
6 children. We believe firmly that every child needs to have
7 quality in its life, and that we would present programs and
8 centers that could care for children, help them to grow
9 physically, emotionally, intellectually to the best of their
10 ability.

11 That's what we have done over the period of
12 years. We've developed over 20 centers throughout the city in
13 various aspects of the city. We feel that anyplace that one
14 of our centers goes is a help to that particular community
15 because we work not only with the young children, but with
16 their families in an attempt to strengthen family life.

17 I was there for 15 years and when I left,
18 another director came in and stayed for another 15 years. She
19 went to even higher levels and has now been appointed by the
20 president to be the director of the National Head Start
21 Program. We know that Head Start, of course, is the program
22 which has been most helpful in getting the community to
23 understand the importance of early childhood development. We
24 continue with that. Our Head Start Program has expanded over
25 the years and now we have a young executive director who can
26 tell you about the specific kind of things that we want to do

1 at Brady Hall. That's Travis Hardman who is to my left.

2 Shall he go ahead?

3 MR. GLASGOW: Yes, please.

4 MR. HARDMAN: Good afternoon, Madam Chair, and
5 Members of the Board. Again, my name is Travis Hardman, the
6 executive director of the National Child Day Care Association.

7 As our Board president, Tom Taylor, has already
8 provided you with a brief history of NCDCA programs and
9 philosophy, we are very proud of our history of service. As
10 the largest provider of publicly funded child care services in
11 the District, we have a duty to continue to expand our program
12 to meet the needs of the families in the District of Columbia.

13 Throughout the history of our organization, we
14 have expended thousands of dollars in renting space in church
15 basements, in public housing projects, and other spaces that
16 were not suitable for a child care program. The board of our
17 organization requested that we locate a new facility for a
18 state-of-the-art child development center where we could serve
19 up to 100 children and meet the needs of our children and
20 families in a first class way.

21 After looking at numerous locations throughout
22 the District of Columbia, we located a facility that is ideal
23 for our purposes. It is an institutional building with plenty
24 of interior space that can be configured for classrooms and
25 other requirements of a child care facility. It's a
26 sufficiently large site to accommodate both parking and a

1 children's playground. The building known as Brady Hall was
2 operated by Catholic University as a classroom and dormitory
3 building prior to its acquisition by Providence Hospital. The
4 Hospital has never been able to make use of the building for
5 its needs so it has sat vacant for several years.

6 Although the building is in a residential zone,
7 it is completely surrounded by other institutional buildings.
8 Our architects and other professionals have concluded that
9 changing the building from an institutional classroom building
10 into an apartment building would be quite costly. However,
11 utilizing it for an educational use such as we have proposed,
12 i.e., for classrooms, for training parents in job skills is a
13 cost effective renovation option. We hope that the
14 Board of Zoning Adjustment realizes that there is a crying
15 need for additional child care slots in the District of
16 Columbia as nearly 60 percent of the children under the age of
17 six have parents in the work force. The Metropolitan
18 Washington Council of Governments, also known as COG,
19 estimates that available regulated child care services in the
20 District falls short of meeting the needs of approximately 62
21 percent of the potential demand. In Ward 5 specifically where
22 Brady Hall is located, the 1990 census shows that there were
23 over 5,000 children from ages zero to four residing in the
24 area. But the licensed homes and child care centers could
25 only accommodate approximately 2,000.

26 Given the enactment of the new Welfare Reform

1 Legislation, it is estimated that the demand for additional
2 subsidized child care spaces for existing and former welfare
3 clients will increase by approximately 280 percent. I also
4 want to mention at this point that in the District, there's an
5 estimated need for 4,500 additional child care slots based on
6 the Welfare Reform. Those are figures that come directly out
7 of the Office of Early Childhood Development.

8 In our discussions with the residents of the
9 neighborhood surrounding Brady Hall, we have stressed that
10 we'll reserve up to one-half of the child care slots for
11 children from Ward 5. We have also indicated that we intend
12 to serve children and parents who are not on welfare, as well
13 as those who are. Parents who can afford to pay for NCDCA
14 services will be charged on a sliding fee scale based on
15 family income and family size.

16 I think this is also an important point, given
17 where we are at this hearing. Residents of the area have
18 expressed the fear that we will seek to obtain permission from
19 the Board of Zoning Adjustment to serve 50 parents in a
20 training facility at one time, and then we will expand beyond
21 that at a later time. I just want to state for the record
22 that the National Child Day Care Association has no intention
23 of exceeding the parameters that we have requested and are
24 willing to be bound by the conditions of the BZA order as to
25 the number of children in the child development center, as
26 well as the number of students in the school.

1 One final point which relates to the Carmelite
2 Sisters. We do not view our program as competition with the
3 Carmelite Sisters. We feel that we can exist for the mutual
4 advance of children, families and the community. First, the
5 Carmelite Sisters is a private, Catholic educational
6 institution which seeks to impart religious values to its
7 students. However, the National Child Day Care Association --
8 we are a non-profit, secular, publicly-funded institution
9 which can not, by its charter, teach religion. Secondly, we
10 are organized and funded to provide pre-school education
11 primarily to Head Start children.

12 Third, as I said earlier in my testimony, the
13 need for child care is so great that I believe strongly that
14 the National Child Day Care Association and the Carmelite
15 Sisters' program can not meet the overall tremendous need of
16 child care in the District of Columbia.

17 Lastly, we feel that we can work in
18 collaboration with our neighbors as we always have. As Mr.
19 Taylor has mentioned, we are in a number of communities around
20 the city and we've always been an asset in working
21 collaboration and in partnership. Thank you.

22 Oh, one last point. For the record, I do want
23 to state that we do have petitions in support of the
24 application from residents of Ward 5.

25 CHAIRPERSON HINTON: All right. Those have not
26 been previously submitted to us?

1 MR. GLASGOW: No, they have not.

2 MR. HARDMAN: They have not.

3 CHAIRPERSON HINTON: Okay, thank you.

4 MR. GLASGOW: I would like to call the next
5 witnesses, Mr. Charles Bryant and Mr. Robert Morris.

6 CHAIRPERSON HINTON: Mr. Morris has already been
7 recognized as an expert --

8 MR. GLASGOW: Correct.

9 CHAIRPERSON HINTON: -- and we will do that
10 again today. Mr. Bryant may not have been in front of the BZA
11 before recognized as an expert, is that right?

12 MR. BRYANT: I have been before the BZA before,
13 but I do not recall having been recognized as an expert.

14 CHAIRPERSON HINTON: Okay.

15 MR. LYONS: Madam Chair, Mr. Bryant has.

16 CHAIRPERSON HINTON: He has and we'll continue
17 to do so today.

18 MR. FRANKLIN: Unless you've lost your
19 expertise.

20 MR. BRYANT: It will escape. I hope not.

21 Madam Chair, my name is Charles Irving Bryant.
22 I am a practicing architect in the District of Columbia. My
23 firm has been involved in the restoration and rehabilitation
24 of major structures across the city for some 30 years as a
25 part of our routine practice of architecture. In that regard,
26 we also have served as construction manager for a day care

1 facility that was rather similar in its activities as this
2 one, a 30,000 square foot facility for children licensed in
3 the District of Columbia. That is the Edward Mazique Child
4 Care Center.

5 Brady Hall is located on Varnum Street in
6 northeast Washington. The building's architecture is unique.
7 It's a very nice sort of baroque facility. The structure of
8 the building is very sound. It has some 38,000 square feet of
9 space and it was designed primarily for use as a dormitory
10 building. Because of that use, there are certain what would
11 be considered to be functionally obsolete aspects of the
12 building for any kind of general use. However, it is an
13 excellent space resource for the kind of use that the National
14 Child Day Care facility would like to put it to.

15 It is a sound building structurally. Its
16 finishes and architectural features need restoration. The
17 building makes a strong architectural statement in its
18 presence and is the kind of facility when well maintained is
19 of value to its location. Currently, the building is not in
20 the best state of repair. It has been somewhat rundown. It
21 needs new windows and it perhaps needs some roof repair. In
22 the course of inspecting the building, we had occasion to see
23 some rodents on the site. It's boarded up and in its current
24 utilization circumstance is not a good neighbor to the
25 community. The uses that are projected can be facilitated in
26 the building; a good and commodious facility for children and

1 the other activities requested there is entirely possible.

2 We have been able to, within the available site
3 configuration, generate more than the number of parking spaces
4 that would be required for the activity in the building on the
5 site. You have before you, essentially, the same document
6 that we have placed here. In a general sense, the main
7 building which is this part, would be rehabilitated. New
8 systems would be installed in the building. New windows would
9 make it an energy conservative place. The exterior and the
10 landscaping would be restored. The building would have
11 handicap access features.

12 The service area to the building is on this
13 part, on the north side of the building. The parking is all
14 in the space on the west of the building and in this area.
15 The area which is in the U between the wings of the building
16 on the back would be used within a fenced enclosure and
17 landscaped enclosure as the playground for the children which
18 is a situation that ensures that once a fence is placed at
19 this area, there is not going to be -- it will be a relatively
20 easy area to police and maintain a safe circumstance for young
21 people. The entry into the building is by way of new ramp
22 access at this point, and a ramp access into this area will
23 ensure access for the handicapped.

24 It's my feeling that this facility is an
25 excellent resource. That the use proposed at this point is
26 compatible with the use in the surrounding areas. It's my

1 feeling that this is potentially a strong facility to carry
2 out the program of a day care facility.

3 MR. GLASGOW: Mr. Morris, would you please
4 identify yourself and proceed with your statement?

5 MR. MORRIS: Thank you.

6 I'm Robert L. Morris, traffic engineer and
7 transportation planner. My home address is 9109 Rouen Lane,
8 Potomac, Maryland 20854.

9 Good afternoon, Madam Chairperson, Members of
10 the Board. I have prepared a traffic analysis. It's Tab H, I
11 believe Mr. Glasgow said, in the application before you. I'll
12 just touch on the highlights of that. I have indicated what
13 the existing conditions are. I did not note in my report
14 public transportation. There is an H8 metro bus that connects
15 the Brookland Catholic University metro rail station on the
16 red line with this property. It comes down Taylor Street,
17 about a five minute walk from the bus stop.

18 CHAIRPERSON HINTON: A what walk?

19 MR. MORRIS: A five-minute walk.

20 CHAIRPERSON HINTON: Five-minute walk, okay.

21 MR. MORRIS: Yes. The site would have 31
22 parking spaces which exceeds the code requirement of 28. I
23 calculate a peak need for 29 spaces which is consistent with
24 the code requirement.

25 The principal issue as far as traffic is
26 concerned focuses on the intersection of Varnum Street and

1 Tenth Street. The people in the neighborhood have noted that
2 there is congestion there. They have concern about the
3 traffic coming through there. I have made a number of
4 observations there. I have traffic counts. I must tell you
5 that the level of service during both the morning and evening
6 peak hour is A, which is the best possible level of service.

7 But the people in the neighborhood have a good
8 point and the reason is this. There is access to Providence
9 Hospital, that driveway, approximately 50 feet east of this
10 intersection at Tenth and Varnum. What happens with just one
11 lane of traffic moving in each direction, when somebody is
12 going east on Varnum Street, east of Tenth Street, wanting to
13 turn into Providence Hospital, if the traffic is backed up
14 from the intersection at Tenth Street, they can't get in.
15 That causes a backup going east, so you have kind of a snarl
16 at the intersection of Tenth and Varnum. That's what causes
17 the problem that the neighborhood quite rightly perceives.

18 But as I must report to you that in terms of
19 level of service, it is a level of service A. Now, I'd also
20 note that traffic coming to the site and leaving the site
21 would not add to that particular problem. The traffic coming
22 up Tenth Street will turn left to go west on Varnum and then
23 up the private street, Eighth Street, to get to the site
24 access.

25 So, my bottom line, Madam Chairperson, is that
26 there would be no adverse impact resulting from the proposed

1 use of the subject property in terms of traffic engineering.
2 There is adequate parking on the site and from a traffic
3 engineering viewpoint, this would be an appropriate use of the
4 subject property.

5 MR. GLASGOW: I'd like to call the next two
6 witnesses, Mr. Rick Nero and Mr. Willam Davis.

7 Mr. Nero, would you please identify yourself for
8 the record and proceed with your testimony?

9 MR. NERO: Good afternoon, Madam Chairman,
10 Members of the Board. My name is Rick Nero. I'm an urban
11 planner with the law firm of Wilkes, Artis, Hedrick & Lane.

12 I have reviewed the application of the National
13 Child Day Care Association for consistency with the purpose
14 and intent of the zoning regulations and map, as well as the
15 applicable provisions of the comprehensive plan. The proposed
16 child development center and private school use could not have
17 found a better location to operate. The subject building and
18 the lot that it is sited on are both large enough so as to
19 eliminate any possibility of overcrowding or impacts on light
20 and air to adjacent properties.

21 The subject property was built in 1909 and has
22 been used since that time for institutional purposes,
23 including classroom and dormitory use. The use of the
24 building as an educational facility predates the construction
25 of the nearest dwelling units to the subject site. As is
26 shown in the applicant's photographic exhibit, the subject

1 property is located in an enclave of institutional uses and
2 those have been described previously by previous witnesses.

3 The subject premises is located in the R-5-A
4 District. The R-5-A District permits the occupancy of the
5 subject property by a variety of matter of right uses
6 including a hospital, clinic, museum, private club, fraternity
7 house, dormitory, and sanitarium. The subject property does
8 not directly abut any dwelling unit. The nearest dwelling
9 unit to the subject property is located to the southeast,
10 diagonally across Varnum Street.

11 The applicant has demonstrated that it has met
12 the burden of proof necessary for the approval of special
13 exceptions for a child development center and private school.
14 In summary, the applicant complies with the provisions of
15 Sections 205 and 206. The architect for the project has
16 testified that the child development center has been designed
17 to meet applicable code and licensing requirements. The
18 traffic expert has demonstrated that the child development
19 center and private school will not create any unsafe traffic
20 conditions and that no adverse condition will result from the
21 picking up and dropping off of children. There is a safe and
22 amply sized outdoor play area tucked in between the two wings
23 of the building. The location of the play area provides an
24 excellent buffer between the nearest dwellings. There is also
25 more than enough parking to accommodate the employees and
26 visitors to the site.

1 The application complies with the statutory
2 requirement for special exception approval under Section
3 3108.1 and that the uses proposed would be in harmony with the
4 general intent and purpose of the zoning regulations and map,
5 and that the use will not effect adversely, the use of
6 neighboring property.

7 Lastly, I would like to point out that the
8 proposed use is supported by several elements of the
9 comprehensive plan. The proposed use is certainly consistent
10 with the policies and objectives contained in the human
11 services element of the plan. The approval of the application
12 will allow the delivery of needed services to the community.
13 Additionally, the proposed use at this location is consistent
14 with the land use element of the comprehensive plan.

15 The subject property is located within a large
16 area designated for institutional use on the generalized land
17 use map of the comprehensive plan. I've got a blow-up of that
18 comprehensive plan. As you can see, this large blue area is
19 institutional designation. The subject property is indicated
20 in white on that.

21 CHAIRPERSON HINTON: The yellow on there is
22 residential?

23 MR. NERO: The yellow is residential, as is the
24 tan. The green areas are open space and park areas. The pink
25 and purple areas are industrial and commercial uses.

26 CHAIRPERSON HINTON: Thank you.

1 MR. NERO: Sections 112.11 and 112.12 of the
2 comprehensive plan states that "to the extent that they are
3 relevant, the objectives and policies of the District element
4 of the plan shall be considered in plan unit development,
5 campus plans, special exceptions" -- a situation like we have
6 today -- "variance and other decisions. The BZA shall
7 evaluate the proposal in conjunction with the applicable
8 sections of the plan text and map."

9 CHAIRPERSON HINTON: Would you start over again
10 to the extent that they are relevant?

11 MR. NERO: Okay. Let's see, Sections 112.11 and
12 112.12 of the comprehensive plan states that "to the extent
13 that they are relevant, the objectives and policies of the
14 District element of the plan shall be considered in plan unit
15 development, campus plans, special exceptions, variance and
16 other decisions, the BZA shall evaluate the proposal in
17 conjunction with the applicable sections of the plan text and
18 map."

19 The proposed institutional use is a perfect fit,
20 in my opinion, for this location from a land planning and
21 zoning perspective. That concludes my testimony.

22 MR. GLASGOW: Mr. Davis, would you please
23 identify yourself for the record and proceed with your
24 testimony?

25 MR. DAVIS: Certainly.

26 My name is William A. Davis, Jr. I'm the

1 president of DBW Development Group. DBW specializes in
2 helping non-profit organizations, churches, and universities
3 to develop real estate. We've been in business since 1988,
4 but I've actually been involved in this specialized niche of
5 the real estate market since 1984. I've helped universities
6 to build apartment buildings. I've overseen the development
7 of probably the state-of-the-art child care center in the
8 District today which is the Edward Mazique Parent-Child Center
9 over on 13th Street. That's a 30,000 square foot building
10 that is licensed for 150 children.

11 As Mr. Hardman pointed out in his testimony,
12 child care in the District and throughout the country, really,
13 as it began to grow, there were very few buildings that really
14 were designed for a child care center. These centers got
15 pigeon-holed into church basements, basements of public
16 housing projects and other kinds of buildings. Today, the
17 President, Mrs. Clinton and everyone is talking about the need
18 for state-of-the-art child care. If we're going to have that,
19 we're going to have to pay real attention to the kind of
20 buildings that we put children from ages 2 to 6 in. My firm
21 is committed to trying to develop the highest quality kind of
22 child care centers in this city.

23 I was astounded as I read the ANC submission to
24 you, that they argued that putting a child care center in this
25 institutional building would bring criminal elements to this
26 community. We've got here the largest, most established child

1 care outfit in this city, operating some 15 centers all over
2 the city. In over 30 years, I asked the head of the Child
3 Care Center, has any of the neighbors in any of the other
4 areas where you provide services complained to the police that
5 you brought criminal elements into the neighborhood? And the
6 answer is no. There is no evidence at all that this center is
7 going to have that kind of detrimental impact on the
8 neighborhood.

9 How did we proceed to find this building? Well,
10 when the board of directors of the National Child Day Care
11 Association asked my firm to develop a new facility, the first
12 thing I did is I went all over the city. I had four real
13 estate brokers looking all over the city for sites. We found
14 vacant pieces of land in different places. I've looked at
15 more used car buildings and tried to figure out how to
16 retrofit them into child care centers than you can imagine.

17 When one real estate broker showed me Grady
18 Hall, here I found a building that was an educational
19 building, had been used as an educational building. It
20 already has classrooms and an auditorium in it. So, I went to
21 see the head of Providence Hospital and discussed our program,
22 and they thought it would be a perfect fit. The executive
23 vice-president of Providence Hospital is here today to testify
24 on why the hospital thinks this would be a very good use for
25 this building.

26 Another thing that astounded me and it made it

1 very difficult to enter a sort of a rational dialogue with the
2 ANC is that if you ask them their position about the building,
3 they think we should tear this beautiful historic building
4 down. They've asked the hospital to tear it down and make a
5 public park out of it. Now that is to an argument against any
6 use of the building. It's not an argument against our use of
7 the building. It's an argument against any use of the
8 building. And so, we found it very difficult to engage in a
9 rational discussion on that basis.

10 Another thing that's very difficult about trying
11 to set up a child care center like this is getting the
12 finance. Mr. Hardman, the executive director and I, went to
13 eight different banks in this town trying to finance this
14 project. We eventually were very lucky -- it was partially
15 luck, some skill -- in getting two major banks in this town,
16 namely Industrial Bank and Nations Bank, to agree to finance
17 this project. Industrial Bank came forward with the best
18 terms and we accepted their offer. They offered to lend us
19 \$2.4 million amortized over 25 years to finance this project.
20 They took a very careful look at this building and our uses
21 and determined that this was a good space for us to be in.

22 CHAIRPERSON HINTON: I think we're getting a
23 little bit beyond zoning issues, sir.

24 MR. DAVIS: Okay, okay, I'm sorry.

25 CHAIRPERSON HINTON: That's okay.

26 MR. DAVIS: We did an environmental first phase

1 assessment of the building to see whether -- we knew that we'd
2 find some asbestos and other things in the building. We have
3 our assessment and know how to deal with the environmental
4 issues. We did a survey of the site. When we found the
5 encroachment on the Carmelites' land, I authorized the
6 Commonwealth Title Company to do a title report to assure us
7 that, indeed, we could get clear title and they assured us of
8 that.

9 One other point I want to touch is the issue
10 raised in the ANC submission about the fact that originally,
11 we asked this Board to grant us special exceptions for 300
12 students rather than 150 students. That occurred back last
13 November when we filed the application. As our architect and
14 other engineers got into the building and did a study of how
15 this building needed to be renovated, we concluded that it was
16 best to reduce the numbers of children so that we could
17 accommodate everyone comfortably, have enough parking spaces,
18 et cetera. When we did go to see the ANC officials, we told
19 them immediately that we were reducing the number that we were
20 going to request from the BZA to 150 in total. I appeared at
21 two ANC community meetings, gave out a flyer that said exactly
22 the same numbers that you have in your report from us. And
23 so, I don't think there was any intent to mislead the
24 community. It's just that we, after further study, decided
25 that we should request a smaller number of slots for the
26 special exception.

1 One last thing, the Carmelites in their letter
2 to you, indicate that they are concerned about conflicts in
3 terms of drop-off space for children. As our architect
4 pointed out, our drop-off space will be on our side yard
5 coming in Eighth Street. The Carmelites' facility, all their
6 children -- where the red light is is where our drop-off space
7 is. The Carmelites come in on an asphalt road behind our
8 building, directly to their play yard and child care center.
9 So, there's absolutely no conflict whatsoever between where
10 the children will be dropped off for the two facilities.

11 I think I'll stop there, but I'm quite willing
12 to answer any questions.

13 MR. GLASGOW: Madam Chair, the only reason why
14 the financing issue was brought up was with respect to the
15 conditions that were requested by the Office of Planning. We
16 agree with all of them except number one, because of the
17 financing issue. Because it was a five-year -- approval shall
18 be for a period of five years.

19 Then a slight modification of condition six. It
20 says the children shall be --

21 CHAIRPERSON HINTON: Could you give us one
22 minute to get those reports out?

23 MR. GLASGOW: Oh, sure.

24 CHAIRPERSON HINTON: Then we can look at them
25 with you, okay?

26 MR. GLASGOW: Sure. It's page 9 of the OP

1 report.

2 CHAIRPERSON HINTON: The OP report? Page 9?

3 Okay, thank you. Could you go over those again?

4 MR. GLASGOW: Sure.

5 With respect to the conditions, we, the
6 applicant, submits that it agrees to all the conditions except
7 for one and then a modification of condition six. One is the
8 approval shall be for a period of five years. Because of
9 financing for this type of project, we think it will be very
10 difficult for us to have only five year approval.

11 CHAIRPERSON HINTON: What are you requesting?

12 MR. GLASGOW: We are requesting an approval of
13 the special exception for this user.

14 CHAIRPERSON HINTON: With no time limit?

15 MR. GLASGOW: That is correct.

16 CHAIRPERSON HINTON: And number six?

17 MR. GLASGOW: Number six, "the children shall be
18 escorted into the building by a staff member." We would
19 insert the words "or parent when they are dropped off." That
20 is how the National Child Day Care Association operates its
21 other facilities.

22 CHAIRPERSON HINTON: Very good.

23 MR. GLASGOW: But we believe the Office of
24 Planning may also be making a comment with respect to
25 condition number one.

26 CHAIRPERSON HINTON: Okay.

1 MR. GLASGOW: That concludes our direct
2 presentation.

3 CHAIRPERSON HINTON: Okay. I have a couple of
4 questions. I think I'll start. Then anything I miss, the
5 other Board members can join in on.

6 Mr. Hardman -- I also have questions for Mr.
7 Morris, if you want to come forward.

8 Mr. Hardman, you quoted some numbers from COG
9 about 62 percent of children are not served. Is there a year
10 associated with those numbers? Was that in 1995, or 1996?

11 MR. HARDMAN: I believe those were 1995 numbers.

12 CHAIRPERSON HINTON: So, do you know if those
13 numbers take into consideration the Welfare Reform that has
14 occurred since then?

15 MR. HARDMAN: I'm quite sure that they do not.

16 CHAIRPERSON HINTON: They do not?

17 MR. HARDMAN: They do not.

18 CHAIRPERSON HINTON: Okay.

19 Mr. Morris, I have two questions. First, could
20 you explain the drop-off? Where the children that are brought
21 to the site by vehicle, where they would be dropped off and
22 how the vehicles would turn around? It's not clear to me.
23 Are they going to drive into that paved area or do they just
24 drive past? And where is the entrance that the children will
25 be brought into?

26 MS. MITCHELL: I believe that --

1 CHAIRPERSON HINTON: You want the architect?

2 Anybody, anybody who knows.

3 MR. BRYANT: The drop-off point is here. You
4 enter the property at this point. There is sufficient space
5 for probably easily ten automobiles to line up as they
6 approach this drop-off space at this point. To leave the
7 site, the auto may turn in the driveway, reverse out, and come
8 this way, option one. Second option is turn this way,
9 reversing, and going out so.

10 CHAIRPERSON HINTON: And where is the entrance
11 where the child care --

12 MR. BRYANT: Into the child care, the entrance
13 is here. The child is dropped off at this point, goes through
14 a gate at this point and over to the entrance into the ramp to
15 the basement level, to the ground floor level.

16 CHAIRPERSON HINTON: If it is the policy that
17 parents bring children into the school, did I hear that right?
18 Is that always or is it a staff or a parent?

19 MR. HARDMAN: It's either. It's either/or.

20 CHAIRPERSON HINTON: Staff or parent.

21 MR. HARDMAN: Right.

22 CHAIRPERSON HINTON: So, if a parent is to bring
23 a child in, how will that work?

24 MR. BRYANT: If a parent is bringing the child,
25 that parent would probably come along the sidewalk here and
26 into the same general area, to an entry at that point.

1 CHAIRPERSON HINTON: What if a parent drives and
2 brings the child in?

3 MR. BRYANT: If a parent drives, the parent will
4 be coming along Varnum Street, making a turn into the property
5 at this point, coming down to the drop-off point.

6 CHAIRPERSON HINTON: So, they'll leave their car
7 there at the drop-off while they take their child in?

8 MR. DAVIS: They can leave their car at any of
9 the spaces.

10 MR. BRYANT: All these are parking spaces along
11 here and there are also all of the parking spaces along here
12 which are a part of it. So that, if the parent has to take
13 the child in, he or she may take any parking space that is
14 here or here, or for that matter, along here in order to take
15 the child into the building.

16 CHAIRPERSON HINTON: Okay. And some of those
17 spaces will be blocked if there are cars queuing to get to the
18 drop-off point.

19 MR. BRYANT: That's correct. Some of these
20 spaces might be blocked. None of these would be blocked and
21 none of these would be blocked.

22 CHAIRPERSON HINTON: Okay.

23 MR. BRYANT: And we think since we have in
24 excess of parking spaces, that that would be advantageous to
25 the prospect of blocking.

26 CHAIRPERSON HINTON: There's a total of 31 --

1 MR. BRYANT: Total of 31 provided, yes.

2 CHAIRPERSON HINTON: -- on the site? Okay.

3 Okay, now I think this is for Mr. Morris, but
4 whoever. All the children will be arriving at the same time
5 in the morning?

6 MR. HARDMAN: No.

7 CHAIRPERSON HINTON: It's a staggered arrival?

8 MR. HARDMAN: No, it's a staggered arrival,
9 correct.

10 CHAIRPERSON HINTON: And during what hours?

11 MR. HARDMAN: Typically, between the hours of
12 7:00 a.m. and 7:45 a.m.

13 CHAIRPERSON HINTON: So, within 45 minutes,
14 you'll be receiving 100 children?

15 MR. HARDMAN: Approximately, correct.

16 CHAIRPERSON HINTON: Some of those children are
17 probably in families, right?

18 MR. HARDMAN: Yes.

19 CHAIRPERSON HINTON: These are children between
20 three and five years old, is that right?

21 MR. HARDMAN: Correct.

22 CHAIRPERSON HINTON: So, how many vehicles do
23 you estimate will be here during those 45 minutes bringing
24 children in and leaving?

25 MR. HARDMAN: Our best estimate is approximately
26 30 vehicles because I want to make another point that a large

1 number of our parents also take public transportation. So,
2 the public transportation in addition to families, as you
3 stated earlier, makes that number right around 30.

4 CHAIRPERSON HINTON: I didn't see any
5 information in what was submitted in a breakdown of the 100
6 children in the day care, what the estimate is of how many
7 would be arriving by car and how many would be arriving by
8 public transit and how many might be walking. Then a further
9 breakdown of the numbers that are coming in cars, how many
10 cars would that be over the 45 minute period.

11 So, that's why when I look at the transportation
12 report, it seems a little light to me because none of those
13 items are discussed. There's a number in the report that
14 says, "well, we're estimating it will be 50 cars", I think?

15 MR. MORRIS: Fifty trips during the peak hour.
16 The highway peak hour is 7:30 to 8:30.

17 CHAIRPERSON HINTON: Yes. And that's really
18 unclear to me. It doesn't even discuss the difference between
19 the child care and the private school. It just says 50.

20 MR. MORRIS: That's for both.

21 CHAIRPERSON HINTON: I mean if it's 100 children
22 and they're only aged three to five, there's not going to be
23 more than three per family. I mean, probably, you know.
24 There are twins and triplets and things, but there's only
25 three, four, and five years -- they can only be three years.
26 So, I would think you're only going to get maybe two children

1 or one child per family which means, you know, you have almost
2 a trip per child which is 100 trips. Now, if they're all not
3 coming by car and I understand that, but we need some
4 information about where these numbers came from.

5 The other thing that really should be probably
6 made clearer is where is the public transit? How far from the
7 site? Because the farther it is away with a three to five-
8 year-old, the less likely you are to use it, I would think.

9 MR. MORRIS: Right. Let me make it clear, I'm
10 talking about the highway peak hour, the street peak hour,
11 which is 7:30 to 8:30. The testimony you just had said that
12 you would get most of your children between 7:00 and 7:45.
13 So, we're not talking about the same hours. I understand your
14 question, but I just want to --

15 CHAIRPERSON HINTON: Okay.

16 MR. MORRIS: -- make sure you understand that my
17 50 trips during the peak hour referred to 7:30 to 8:30, okay?

18 CHAIRPERSON HINTON: Well, I understand.

19 MR. MORRIS: Okay.

20 CHAIRPERSON HINTON: Okay.

21 MR. MORRIS: You asked about the proximity of
22 the transportation. It is Taylor Street and Tenth Street is
23 the bus stop, which brings you from the red line metro at
24 Brookland. That's the five minute walk that I referred to,
25 okay?

26 CHAIRPERSON HINTON: Are there sidewalks along

1 the entire length of that walk?

2 MR. MORRIS: Yes. On Tenth Street? Yes, Tenth
3 Street and Varnum Street, yes.

4 CHAIRPERSON HINTON: Okay. Is that a five
5 minute walk with a child?

6 MR. MORRIS: It depends on how fast the child
7 walks.

8 CHAIRPERSON HINTON: Now, wait a minute. We can
9 not have any kind of comments from the people in the audience,
10 okay? Because we're recording and it makes it impossible to
11 pick up on the microphone. So, as funny as some of this may
12 seem -- I mean, I think that's important when we're talking
13 about --

14 MR. MORRIS: Sure it is.

15 CHAIRPERSON HINTON: -- people that are bringing
16 children, and maybe more than one child.

17 MR. MORRIS: Right. Right.

18 CHAIRPERSON HINTON: Right.

19 MR. MORRIS: Okay, it may be six minutes. Yes,
20 that's difficult. It's about 1,200 feet from the bus stop to
21 the subject site.

22 CHAIRPERSON HINTON: That's about a quarter of a
23 mile.

24 MR. MORRIS: Little less than a quarter of a
25 mile, that's correct.

26 CHAIRPERSON HINTON: How long is the bus trip

1 from the metro? How long does that take once you get on the
2 bus?

3 MR. MORRIS: How long does it take? Four
4 minutes according to metro time table.

5 CHAIRPERSON HINTON: Okay. And a quarter-mile
6 walk.

7 MR. MORRIS: Right.

8 CHAIRPERSON HINTON: What was your estimate on
9 how many people would be using public transit, just of the
10 child development?

11 MR. MORRIS: On the child development, I didn't
12 assign any of those to public transportation. I said 25
13 percent would walk from the general neighborhood. I had 50
14 percent of those in cars arriving during the peak hour. And
15 I'd say again, I'm talking about 7:30 to 8:30 now, not 7:00 to
16 7:45. At two per car, that gives me a total of 38 trips - 19
17 coming in, 19 coming out.

18 You're frowning. Let me finish.

19 CHAIRPERSON HINTON: Okay.

20 MR. MORRIS: Using those calculations, I came up
21 with 38 trips for the children at drop-off. None of the
22 staff, faculty will be arriving during peak hours. They'll
23 all be there by 7:00, okay?

24 Of the adults, 50 adults, I have assigned
25 roughly 10 more trips coming in. Thirty-eight plus 10 is 48
26 and I rounded it off to 50. That's how I got to the 50. Now,

1 apparently, you have some question about how I got that 38
2 because I saw a frown on your face?

3 CHAIRPERSON HINTON: Well, we have 25 percent
4 are walking, is that right?

5 MR. MORRIS: Yes, right.

6 CHAIRPERSON HINTON: So, that's 25 children.

7 MR. MORRIS: Twenty-five children walking, yes.

8 CHAIRPERSON HINTON: Okay, so we have 75 percent
9 that are coming by car?

10 MR. MORRIS: Right. Fifty percent of those, I
11 said will come during this peak hour, 7:30 to 8:30, okay?

12 MR. HARDMAN: Some are coming on public
13 transportation also.

14 MR. MORRIS: No, no. Well, I understand that.
15 But I assumed for the purposes of the children, no public
16 transportation. Although you're asking how long it takes to
17 walk with a child and so forth.

18 CHAIRPERSON HINTON: But you assumed none?

19 MR. MORRIS: My assumptions were 25 percent
20 would walk in from the neighborhood. Fifty percent of the
21 remainder who come by car would arrive during that peak hour,
22 7:30 to 8:30. At an average of two per car, that works out to
23 38 children, okay? 38 cars, 19 coming in, two going out.
24 That's how I got my 38 and then I added another ten to that
25 and rounded it off to 50.

26 CHAIRPERSON HINTON: Okay. And how did you get

1 your average of two per car? Is that a statistical average
2 with this day care provider?

3 MR. MORRIS: I asked the day care provider what
4 do they typically get? I can tell you that I've made
5 measurements at a number of Montessori schools. I'm not sure
6 exactly how comparable this is, but I got an average of a
7 little better than two children per car going to Montessori
8 schools.

9 CHAIRPERSON HINTON: Do they deal with the same
10 age group, three to five?

11 MR. MORRIS: I'm sure they have a broader range
12 group than just three to five.

13 CHAIRPERSON HINTON: Okay. So, that number may
14 be different.

15 MR. HARDMAN: One point I would like to make on
16 our experience of the child care provider, that a number of
17 the parents -- in most of our centers, the majority of the
18 parents do take public transportation. The distance hasn't
19 been an issue, especially when we talk about the need for
20 quality child care, and the quality child care in a
21 neighborhood near where you reside.

22 CHAIRPERSON HINTON: I would think that if you
23 have statistics on that sort of thing, your other day care
24 centers, the distance of those to a bus line or to metro and
25 the statistics on the numbers of uses, that would be really
26 helpful, if you have that information. It's hard for us to

1 figure out how, exactly, all these people are going to get to
2 the site.

3 The other thing that's really kind of confusing
4 this issue is that we have a peak hour at the intersection,
5 but I think we have a different peak hour at this site.

6 MR. MORRIS: Yes, I agree with that, certainly.

7 CHAIRPERSON HINTON: So, one of my concerns is,
8 it seems like there's going to be a bit of a traffic snarl
9 with -- you don't have a good turnaround situation. Now, I
10 don't think you do. I don't know as a transportation planner.
11 I would think it would be much better if people did not have
12 to do a three point turn there, which is what they have to do
13 to get back out. So, that's going to complicate things.

14 The numbers that we're looking at are the peak
15 for an intersection that really isn't related to where I think
16 your traffic problem is going to be, which is on your site,
17 when people want to come in and turn around and leave.

18 MR. MORRIS: Our peak hour for our site is going
19 to be 6:45 to 7:45, that's right.

20 CHAIRPERSON HINTON: Right. And you'll have how
21 many vehicle trips at that time, during that hour?

22 MR. MORRIS: I didn't calculate that, but your
23 staff, obviously, is going to be arriving between 6:45 and
24 7:00. And let me see, what do I have?

25 Now, I used for the staff, I figured the number
26 of parking spaces we would need and I guess I can translate

1 that into the number of trips. COG shows 52 percent in this
2 area using public transportation. COG also shows 1.4 persons
3 per car. That may be a little high. I don't know. That's
4 through the central area, the downtown. But using those
5 figures, I figured 56 staff. We have 52 and there's also a
6 health clinic and I threw in another four to make it a total
7 of 56. Using 52 percent transit for the 56 staff, 1.4 persons
8 per car, that's 19 cars. If they all arrive in the 6:45 to
9 7:45, I guess that's your answer. There would be 19 people.

10 However, all the staff don't arrive at 7:00, as
11 I understand it, because you have the child day care that goes
12 from 7:00 to --

13 MR. HARDMAN: To 6:00 p.m.

14 MR. MORRIS: -- 6:00 p.m. So, you have some of
15 the staff will arrive at 7:00 and stay until when, 2:00?

16 MR. HARDMAN: Three.

17 MR. MORRIS: Until 3:00, and then others will
18 arrive at, say, 10:00 and leave at 7:00, something like that.
19 But using the total staff, the 56 staff, I have 19 cars. So,
20 that gives you some indication. Maybe it's only 60 percent of
21 that. It's not a large number, in any event.

22 CHAIRPERSON HINTON: But it's 76 trips for the
23 children and then whatever staff happens to fall in that hour.

24 MR. MORRIS: Oh, not in the hour. For the
25 children, I've got 38 trips.

26 CHAIRPERSON HINTON: You had 38 and that was

1 half of the cars in the peak hour, which was only 15 minutes.

2 MR. MORRIS: Well, that was for my 7:30 to 8:30
3 period and I multiplied by two. I have 100 times .75, for 75
4 percent coming by automobile --

5 CHAIRPERSON HINTON: Right.

6 MR. MORRIS: -- times .5 arriving during the
7 peak hour, okay?

8 CHAIRPERSON HINTON: Well, but see, here's where
9 we're getting into the problem. The peak hour on this site
10 for when the children arrive --

11 MR. MORRIS: Okay.

12 CHAIRPERSON HINTON: -- is from --

13 MR. MORRIS: 6:45 to 7:45.

14 CHAIRPERSON HINTON: Is that what we said
15 earlier? What time do the students arrive, the children?

16 MR. HARDMAN: I said 7:00 a.m., to 7:45.

17 CHAIRPERSON HINTON: 7:00 to 7:45.

18 So, you're saying 6:45 to 7:45 is when most of
19 the staff and the children arrive?

20 MR. MORRIS: Right.

21 CHAIRPERSON HINTON: So, that's 75 cars for
22 children and 19 cars for staff.

23 MR. MORRIS: No, no, no. I was figuring two per
24 car. It may be less than that. Seventy-five children, okay,
25 not -- excluding those who walk, 75 children come by
26 automobile, okay? Start with that?

1 CHAIRPERSON HINTON: And you're assuming two per
2 car?

3 MR. MORRIS: Two per car.

4 CHAIRPERSON HINTON: Which probably is not quite
5 enough.

6 MR. MORRIS: Maybe, okay. So, maybe it's 40
7 instead of 38. You know, I don't know. I'm just going on the
8 basis of what past experience here is and what I've seen at
9 Montessori schools which may not be directly comparable.

10 CHAIRPERSON HINTON: Right. So, say 40 plus the
11 staff, which is 19 during that hour?

12 MR. MORRIS: Total staff throughout the day.
13 You know, maybe 60 percent of those arrive before 7:00. But
14 some of them will be coming in at 10:00 and staying until
15 7:00, for example. So, if we say 60 percent of those, we're
16 talking about maybe 12 cars for the staff.

17 CHAIRPERSON HINTON: Okay.

18 MR. MORRIS: So, 12 plus 38 is 50.

19 CHAIRPERSON HINTON: Okay. Does that help?

20 MR. MORRIS: Well, it's not a big number, but I
21 understand. You know, I certainly understand where these
22 folks are coming from. They see a problem and they don't want
23 to aggravate the problem. The point I make is that these are
24 not big numbers. That the problem that exists has nothing to
25 do with the actual intersection they're concerned with. It's
26 the conflict of going into Providence Hospital. And quite

1 frankly, if somebody were to put up a sign that said "Do not
2 block driveway", I think that would solve that problem, but
3 that's not something we can do.

4 But in any event, what we're talking about,
5 relatively small numbers not adding to the problem that these
6 people perceive. As I say, unless you're going to tear down
7 the building and make a park out of it, as the ANC apparently
8 would like to have, you're going to have something on the
9 site. It's going to generate traffic and it's going to
10 generate more traffic during the street peak hour than this is
11 going to do. This comes mostly before the street peak hour.

12 CHAIRPERSON HINTON: Okay. If you wouldn't
13 mind, could you just explain one more time where that traffic
14 problem is and why all the people coming to this site won't be
15 involved in it. That's my estimation of what you said.

16 MR. MORRIS: That's correct, yes.

17 CHAIRPERSON HINTON: Okay. Could you explain
18 that?

19 MR. MORRIS: Sure.

20 Do we have a figure that shows --

21 CHAIRPERSON HINTON: Yes, a map that shows the
22 roads would be good.

23 MR. MORRIS: Well, if you can look at my report
24 on page 2, that's Exhibit H. Do you see that?

25 CHAIRPERSON HINTON: I do.

26 MR. MORRIS: Okay. And you see I've indicated

1 where the site is.

2 CHAIRPERSON HINTON: I see that.

3 MR. MORRIS: Now, if you look to the right at
4 the end of where it says Lieutenant Joseph P. Kennedy
5 Institute where the word Varnum starts, the letter V, okay?

6 CHAIRPERSON HINTON: That's Varnum and 12th, is
7 that right?

8 MR. MORRIS: That is Varnum and 12th, right.
9 This does not show the entrance to the hospital. To the left
10 where Oru Place is indicated, the O in Oru?

11 CHAIRPERSON HINTON: Yes.

12 MR. MORRIS: Do you see that?

13 CHAIRPERSON HINTON: Yes. It's at the top of --
14 Tenth Street.

15 MR. MORRIS: That's Tenth Street. So, that's a
16 T intersection. Tenth Street ends right there.

17 CHAIRPERSON HINTON: Okay. Go ahead.

18 MR. MORRIS: That's the intersection that's the
19 problem we're talking about. Immediately to the right of that
20 -- it doesn't show on the map, but just about where the R is
21 in Oru is a driveway going into Providence Hospital. What
22 happens is, you have cars going west on Varnum Street -- the
23 intersection of Tenth and Varnum Street is controlled by stop
24 signs. It's an all-way stop. You have to stop at each
25 approach. So, cars going west on Varnum Street, past that
26 driveway, come to Tenth Street and of course, stop. If you

1 have maybe three cars -- it doesn't take anymore than three
2 cars to come there and stop -- they block that driveway. If,
3 at that time, there's somebody going east past Tenth Street
4 and wanting to make the left turn into the hospital, then you
5 have the blockage. If there are cars behind them, then you
6 can't get into the intersection of Tenth and Varnum.

7 CHAIRPERSON HINTON: Okay, so the people
8 proceeding north on Tenth Street --

9 MR. MORRIS: Right.

10 CHAIRPERSON HINTON: -- that want to turn right
11 on Varnum --

12 MR. MORRIS: Yes.

13 CHAIRPERSON HINTON: -- may be prohibited from
14 turning right because that traffic has backed up because they
15 can't turn into Providence Hospital.

16 MR. MORRIS: Well, it can back up into that
17 intersection, that's correct.

18 CHAIRPERSON HINTON: And it seems to me that
19 Tenth Street really is the most likely way people will get to
20 this site.

21 MR. MORRIS: Oh, they will get to this site,
22 yes. But they won't be making a right turn. They'll be
23 making a left turn when they get --

24 CHAIRPERSON HINTON: And as long as they're
25 behind somebody trying to make a right turn, they're not going
26 to be able to go anywhere.

1 MR. MORRIS: They will have to wait until that
2 person makes a right turn, that's correct.

3 CHAIRPERSON HINTON: So, it seems like all the
4 vehicles going to this site, although they're not causing the
5 problem, they're going to be stuck in it. They'll exacerbate
6 it because they're another vehicle taking up room on the road.

7 MR. MORRIS: Well, exacerbating it to the extent
8 that they have to wait for that to clear up. But as soon as
9 they get to that intersection, they can make the left turn and
10 go. They're not going to stop anybody behind them. They're
11 not going to interfere with anybody else --

12 CHAIRPERSON HINTON: Well, they will to the
13 extent that they back up to the next street -- all the streets
14 farther to the south.

15 MR. MORRIS: Well, if I'm driving up Tenth
16 Street and I want to go to this site and there's a car in
17 front of me waiting to make a right turn because the road is
18 blocked, okay it's true, anybody behind me is waiting for me.
19 But as soon as that's clear, as soon as I can get to the
20 intersection, I make my left turn. I don't effect them for
21 more than a second or two until I can make my left turn and
22 get through.

23 I would be effected by the problem, but I
24 wouldn't be exacerbating it --

25 CHAIRPERSON HINTON: Exacerbate, is that how it
26 goes? Okay, well I guess we'll have to think about that. But

1 that's clearer to me.

2 Does everyone understand where that is and how
3 that's going to work?

4 MS. RICHARDS: Oh, sure. I had to drive my
5 husband to Providence every day for two weeks.

6 CHAIRPERSON HINTON: Oh, so you --

7 MR. MORRIS: You're familiar with it then, I'm
8 sure.

9 CHAIRPERSON HINTON: -- very familiar with it.

10 MR. BRYANT: Madam Chairperson?

11 CHAIRPERSON HINTON: Yes? Did you want to speak
12 to this issue?

13 MR. BRYANT: Yes, I wanted to add something.

14 You made a very astute observation that turning around at this

15 point might be a problem. There is an aspect of this street -

16 - first of all, this street is a part of the property. It's

17 really like a private driveway and it is not a through street.

18 So, it's not a situation where traffic is going back and

19 forth.

20 The street dead-ends so that the need to turn
21 around in this area is not fraught with any traffic hazard
22 that's measurable. I wanted to mention that because I
23 recognize that if this were a street going up and down in a
24 normal sense, turning around there is a very different
25 situation. That is not the case.

26 CHAIRPERSON HINTON: Okay, thank you.

1 MR. BRYANT: Indeed.

2 CHAIRPERSON HINTON: Thanks.

3 MR. FRANKLIN: Mr. Bryant however, while you're
4 up there, with regard to the parking spaces that might be
5 blocked during that period, who would be parking there?

6 MR. BRYANT: This space is available for the
7 parking of the occupants in the building, the staff.

8 MR. FRANKLIN: Staff?

9 MR. BRYANT: The staff, yes.

10 MR. FRANKLIN: Would it help at all if there was
11 some control so that spaces near that three point turn area
12 could be left open for a period of time so that there's much
13 more room for maneuvering and that the staff was confined to
14 further down toward the dead-end?

15 MR. BRYANT: Yes, that is true and that is, of
16 course, an administrative control procedure that could be
17 implemented.

18 MR. FRANKLIN: Is there any suggestion that
19 during any period of time there might be a queuing condition
20 that would spill over onto Varnum Street?

21 MR. BRYANT: I would not anticipate that the
22 rate of movement and the probability of everybody arriving
23 within such a tight knot of time would generate a spill over
24 into Varnum Street. And if it tended to be the case, this
25 area -- this part of the street is a relief valve in that
26 regard.

1 MR. FRANKLIN: Also, perhaps Mr. Morris can
2 answer this. Is there any indication of what traffic was
3 stimulated by this facility when it was operating years ago?

4 MR. MORRIS: I tried to get that information and
5 I couldn't, Mr. Franklin.

6 MR. FRANKLIN: It was operating as a dormitory?

7 MR. MORRIS: As a dormitory for Catholic
8 University, I believe.

9 MR. FRANKLIN: And not a classroom?

10 MR. MORRIS: No.

11 MR. FRANKLIN: There were some classes as well?
12 Presumably, there was a certain amount of parking on site at
13 that time as well.

14 Are you adding all the parking? Do you happen
15 to know whether there was parking there previously?

16 MR. DAVIS: The best I -- I found one student
17 lived in that dormitory in the 1960s. Back in those days,
18 people had cars -- students had cars too, and they drove to
19 the building and parked on the street. There was no dedicated
20 parking --

21 MR. FRANKLIN: On-site.

22 MR. DAVIS: -- outside. Now, we're creating it
23 for the child development center.

24 MR. FRANKLIN: So, would it be reasonable to
25 infer that since most students -- and this was college?

26 MR. DAVIS: Catholic University.

1 MR. FRANKLIN: Yes -- would have the use of a
2 car, or many of them. That there was a considerable amount of
3 traffic during the course of the day to and fro from this
4 facility?

5 MR. DAVIS: Yes, it is reasonable to conclude
6 that.

7 MR. FRANKLIN: Thank you.

8 CHAIRPERSON HINTON: I have some questions about
9 the students in the private school. No one testified about
10 it, so I don't know who to ask.

11 MR. HARDMAN: You can ask me.

12 CHAIRPERSON HINTON: What's the enrollment going
13 to be? There's a statement that there will be 50 students on
14 the site at a time. It seems like you have morning classes
15 and afternoon classes, is that right?

16 MR. HARDMAN: Correct.

17 CHAIRPERSON HINTON: So, what kind of total
18 enrollment are you looking at for the school?

19 MR. HARDMAN: The total enrollment is 50. But
20 we estimate that -- this is based on experience also -- we
21 don't typically have more than 25 students at one time. For
22 clarification, the students in this regard are actually
23 parents that have children enrolled in the program.

24 CHAIRPERSON HINTON: All the students have --
25 all the parents --

26 MR. HARDMAN: Typically, the school consists of

1 parents who have children enrolled in the program. Typically,
2 the courses are parenting skills, financial management, GED
3 preparation, child development associate training, these kinds
4 of training programs -- computer training also.

5 One point I do want to make here is that
6 obviously, with a GED course or a course in early childhood
7 development, not every parent in the center is going to
8 participate in that kind of a program. So, basically, the
9 school is for parents that have an interest in these areas.
10 As I mentioned earlier, parenting skills, financial management
11 and other courses that are offered. Most of them are in the
12 form of a workshop.

13 CHAIRPERSON HINTON: So, they're mostly
14 workshops?

15 MR. HARDMAN: Mostly workshops, correct.

16 CHAIRPERSON HINTON: And I would assume of
17 varying lengths, depending on the subject?

18 MR. HARDMAN: Yes.

19 CHAIRPERSON HINTON: I mean, it might be a one-
20 time or a six week, right?

21 MR. HARDMAN: Exactly.

22 CHAIRPERSON HINTON: Workshops.

23 MR. HARDMAN: My understanding is that for the
24 purposes of the zoning, it's called a private school. But in
25 our practical use, it's for the parents that are considered
26 the students in this regard.

1 CHAIRPERSON HINTON: Okay. So then, we have
2 zoning categories like social service center, family service
3 center, things like that. How is this use different in that
4 if you have a child development center and then you have
5 programs, private school workshops that are only open to
6 parents of those children?

7 MR. GLASGOW: Madam Chair, we're getting into a
8 legal issue that we discussed the uses of the property, the
9 type courses that were being given, and who it was open to
10 with the Zoning Administrator. The Zoning Administrator ruled
11 that we did, in fact, meet the criteria for a private school.

12 CHAIRPERSON HINTON: Okay. My question is how
13 is it different? I'm just trying to understand.

14 MR. GLASGOW: Well, like a social service center
15 and those, we, for instance, when you get into the
16 definitional section in the regulations -- all right, well you
17 have the community-based residential facilities. For
18 instance, this does not meet any of the criteria for an adult
19 rehabilitation home. It's not a community residence facility.

20 CHAIRPERSON HINTON: Well, it's not a residence
21 facility at all, is it?

22 MR. GLASGOW: No.

23 CHAIRPERSON HINTON: So, it wouldn't be under
24 the CBRFs.

25 MR. GLASGOW: Yes, I'm looking under the CBRFs.

26 CHAIRPERSON HINTON: That's what I'm saying.

1 Well, don't you have to be a residential facility to be under
2 there?

3 MR. GLASGOW: Well, yes, it's all these
4 different type of homes and everything, so that you find a
5 different classification within the regulations that deals
6 with that. What we saw that this was under the regulations
7 was a private school.

8 MS. RICHARDS: Excuse me. I'm confused as to
9 how CBRFs came up. I thought we were talking about social
10 service centers versus the child care facilities.

11 MR. GLASGOW: Well, I don't see a social --
12 yes, there's no definition of that.

13 CHAIRPERSON HINTON: What about a community
14 service --

15 MR. GLASGOW: So, I'm trying ot find a term that
16 we can deal with under the regulations.

17 MS. RICHARDS: Okay.

18 CHAIRPERSON HINTON: Is there a community
19 service center.

20 MR. GLASGOW: No, CBRFs are what we have that
21 have the special licensing under our definitions.

22 You're right, Ms. Richards. I'm just trying to find
23 something that relates to what we're talking about --

24 MS. RICHARDS: Right, yes.

25 MR. GLASGOW: -- that's defined in the regs.

26 CHAIRPERSON HINTON: And this was the closest

1 fit that you could find, that what you're telling me? A child
2 development center and a private school.

3 MR. GLASGOW: That is correct, for what it was
4 that we were doing.

5 CHAIRPERSON HINTON: Okay. I'll ask the same
6 question of our staff then and see. Maybe there's something
7 else.

8 Okay, those are all the questions I had. Do the
9 other Board members have any questions?

10 Why don't we go with Ms. Reid?

11 MS. REID: In regard to the enrollment, what
12 percentage of the enrollment do you anticipate coming from the
13 immediate community in which you're going to be operating?

14 MR. HARDMAN: We define the immediate community
15 as Ward 5, and that 50 percent of the enrollment would come
16 from the immediate community.

17 MS. REID: I'm not sure if the definition of
18 immediate would necessarily mean Ward 5. Ward 5 is quite
19 broad geographically. I think I'm referring more to the
20 neighboring community in which you're going to be operating.
21 Do you have any breakdown as to what percentage of enrollment
22 will come from that immediate vicinity?

23 Where I'm going with that is, I would think that
24 the percentage of enrollment that comes from that immediate
25 vicinity would have a great bearing on the traffic impact. It
26 may thereby alleviate same. This is where I'm trying to get

1 some idea.

2 MR. HARDMAN: I can just speak to our past
3 experience in the communities that we're located in as far as
4 where we provide child care services. There is a large
5 portion in all those communities that come from the immediate
6 area. We didn't --

7 MS. REID: Large meaning about approximately
8 what percentage?

9 MR. HARDMAN: I would say anywhere from 50 to 70
10 percent.

11 MS. REID: Okay. Go ahead.

12 MR. HARDMAN: Well, do you have another
13 question?

14 MS. REID: No, no. I was going to say, if that
15 is the case, if -- you're anticipating as being your market
16 area with 50 to 70 percent of the enrollment coming from that
17 immediate vicinity, then certainly, that would diffuse a lot
18 of the issues with driving, with traffic.

19 MR. HARDMAN: Yes, that's correct.

20 MS. REID: Are you saying this is, in fact, what
21 you anticipate?

22 MR. HARDMAN: We anticipate, as I said, 50 to 70
23 percent, but we're looking closer at 50 percent from this
24 immediate area. This is, again, as I said earlier, based on
25 our experience with other child development centers in the
26 District.

1 MS. REID: Okay. That being the case then,
2 would not the figures that Mr. Morris came up with need to be
3 adjusted accordingly to closer fit the enrollment population
4 which you are going to be marketing? Because what I'm hearing
5 from his traffic report, it's predicated primarily on people
6 driving. Most of the people who are going to be attending or
7 enrolling in the school driving to the facility. And from
8 what I'm hearing from you, it sounds like perhaps there would
9 not be as much traffic anticipated accordingly because of the
10 fact that you are going to be pulling from your immediate
11 community for enrollment. A lot of the people who would be
12 coming there, bringing their children would be walking.

13 MR. HARDMAN: Basically, we're looking at a
14 situation, as I said earlier on, our experience as a child
15 care provider. I think Mr. Morris has to be conservative in
16 his estimate so that we can have more-or-less a scenario of
17 what the traffic could look like to the center. So, we didn't
18 want to approach it in a fashion that said that we knew for
19 sure. But we're looking at this based on our past experience.

20 MR. DAVIS: Might I add one thing?

21 MS. REID: Certainly.

22 MR. DAVIS: There's another group that we
23 shouldn't forget that may be bringing their children to this
24 center. This is a large institutional area, lots of
25 institutions: Providence Hospital, Catholic University,
26 Trinity College, Hospital for Sick Children. There are all

1 sorts of institutions in this -- this is an employment center
2 in our town. When this center is established, some of those
3 people who work in these institutions are going to want to put
4 their child in this child care center because it's close to
5 work. To the extent they work at Providence Hospital, they
6 have a parking space at Providence Hospital and they'll walk
7 the kid over.

8 MS. REID: Okay.

9 MR. DAVIS: We don't know how many people that
10 is though right now.

11 MS. REID: Right, right.

12 MR. GLASGOW: We can leave the record open and
13 run a scenario of what we believe will occur as to this site
14 and have Mr. Morris run a set of numbers on that and submit
15 those for the record, in addition.

16 MS. REID: Well, that certainly would be
17 wonderful if you could do that.

18 CHAIRPERSON HINTON: Ms. Richards?

19 MS. RICHARDS: My question went to the traffic
20 related to the kitchen. I was looking at the perspectus page
21 that said that there are going to be meals prepared for your
22 satellite centers. Is that still -- this was in part of your
23 package. Can I still rely on this as part of the plan?

24 MR. DAVIS: Where is that in the package? I'm
25 sorry.

26 MS. RICHARDS: Part of Tab H where it's

1 describing the activities here.

2 MR. DAVIS: Tab H is the traffic report.

3 MS. RICHARDS: I always tear my packages apart
4 so, it's the page that looks like this.

5 It says "the centralized site will consist of
6 the comprehensive health care plan at the clinic, the training
7 center, and the agency's central kitchen where over 200,000
8 meals are prepared for our child care centers: UPO, DC Public
9 Schools, Head Start" -- et cetera. So, I wanted to ask about
10 --

11 MR. DAVIS: Well, let me answer the question
12 anyway.

13 MS. RICHARDS: I told you I tore the package
14 apart. I don't know where I got it anyway.

15 CHAIRPERSON HINTON: Okay, the heading is
16 "Comprehensive Child and Family Development Center
17 Prospectus."

18 MR. DAVIS: I'll tell you what we told the
19 community when we visited with the ANC.

20 MS. RICHARDS: Well, I mean, no matter what you
21 told them, what were you --

22 MR. DAVIS: Well, I want to be consistent. This
23 program has two vans. Those vans -- we have dedicated parking
24 spaces for the vans. Those vans leave twice-a-day. Two vans
25 leave at 10:00, which is off-peak hours. They go to the other
26 centers and they come back at 1:30. Then one of the vans

1 leaves at 2:30 again and comes back at 4:00. So, that's the
2 impact on the traffic. There's virtually no impact on the
3 traffic because it's off-peak hours delivering sandwiches to
4 the other centers.

5 MS. RICHARDS: And the two vans also covered the
6 delivery to the Head Start Programs at the schools and the
7 other places listed on the perspectus as being served by this
8 kitchen?

9 MR. DAVIS: Yes, the two vans are what covered
10 all the centers in the National Day Care Center.

11 MS. RICHARDS: Okay. But what about the meals
12 that are being delivered to the Head Starts?

13 MR. DAVIS: Yes.

14 MS. RICHARDS: Okay.

15 MR. HARDMAN: That includes the meals delivered
16 there also.

17 MS. RICHARDS: That's everything?

18 MR. HARDMAN: Yes.

19 MS. RICHARDS: Okay. I looked at your breakdown
20 of space that's allocated to the different functions. Would
21 the kitchen space be included as part of the child care space
22 since it's not a separate listing?

23 MR. DAVIS: It is part of the child development
24 center.

25 MS. RICHARDS: Okay. And that 300,000 meals is
26 an annualized figure?

1 MR. HARDMAN: Yes.

2 MS. RICHARDS: Okay. So, on a daily basis, how
3 many is it, more-or-less? Because that's what we look at,
4 kind of the daily impact.

5 MR. HARDMAN: Right. Daily, it would be under
6 1,000.

7 MS. RICHARDS: Under 1,000, okay.

8 MR. HARDMAN: Yes.

9 MS. RICHARDS: My other question was, now, you
10 have some of your other facilities, centers that have kids up
11 to 14. This one is going to be limited to the little kids?

12 MR. HARDMAN: Correct.

13 MS. RICHARDS: Only the three to fives, okay.

14 MR. HARDMAN: Correct.

15 MS. RICHARDS: And you're closing five of your
16 15 centers and consolidating those programs at this site?
17 That's what was somewhere in the package. Mount Moriah was
18 one, Central Kitchen, and Arthur Capper and a couple of
19 others. You're going to close those and consolidate your
20 programs, those programs here?

21 MR. HARDMAN: No, actually, the confusion I
22 think is that the central office and the kitchen do not have
23 child development centers at those sites.

24 MS. RICHARDS: Okay.

25 MR. HARDMAN: And the Arthur Capper facility,
26 that was based on financing. That facility itself will not

1 close.

2 MS. RICHARDS: All right. So, this is a new
3 facility. All the other existing places where children go
4 will still be open?

5 MR. HARDMAN: You were correct about the Mount
6 Moriah site. That would be one site that would be closed as a
7 result of the opening of this facility.

8 MS. RICHARDS: But that's the only one?

9 MR. HARDMAN: Right.

10 MS. RICHARDS: Everything else is new?
11 How many kids in Mount Moriah now?

12 MR. HARDMAN: There are approximately 70
13 children.

14 MS. RICHARDS: But they're not all coming here?

15 MR. HARDMAN: No. To clarify this also, we're
16 opening another site in Ward 5 that's in close proximity to
17 the Mount Moriah site. So, this is, for all intents and
18 purposes, a brand -- a new site.

19 MS. RICHARDS: Okay, thanks.

20 CHAIRPERSON HINTON: The agency's central
21 kitchen will be located at this site? That's a question.
22 Will it be?

23 MR. HARDMAN: Yes.

24 CHAIRPERSON HINTON: Ms. Richards, which use is
25 that under? Is that under child care or private school?

26 MR. GLASGOW: It's under the child care.

1 CHAIRPERSON HINTON: Well, that doesn't really
2 seem too customary to me to have a central kitchen that
3 prepares and then sends food to other locations.

4 MR. GLASGOW: Well, I guess it depends on what
5 the percentage is of the meals that are prepared on site for
6 on-site and off-site. Because we have a kitchen there in the
7 facility. We have the 100 children coming per day, plus we
8 also have the staff and have the students.

9 CHAIRPERSON HINTON: Well, you have 100
10 children. So, are there 100 meals prepared?

11 MR. GLASGOW: Yes.

12 CHAIRPERSON HINTON: One lunch per child?

13 MR. GLASGOW: Well, actually, no, because there
14 is a snack prepared for each child which is considered a meal,
15 as far as our operation is concerned.

16 CHAIRPERSON HINTON: So, two meals per child?

17 MR. GLASGOW: A lunch and a snack, correct.

18 CHAIRPERSON HINTON: A lunch and a snack. But
19 you have 300,000 meals that are prepared from the central
20 kitchen.

21 MR. GLASGOW: That's correct.

22 CHAIRPERSON HINTON: So, Mr. Glasgow, I don't --
23 you were saying what's the percentage. Tell me what the
24 percentage is.

25 MR. GLASGOW: Well, I don't know it offhand as
26 far as that number. We can do the mathematical calculation

1 and see what the number is.

2 MR. FRANKLIN: Well, is the central kitchen
3 ancillary to this facility?

4 MR. GLASGOW: Yes, it is ancillary and part to
5 this facility.

6 MR. FRANKLIN: How much traffic is it going to
7 generate as such?

8 MR. GLASGOW: The vans that they just talked
9 about.

10 MR. FRANKLIN: How many trips, I should say.

11 MR. HARDMAN: Two trips per day.

12 MR. MORRIS: Well, it's four: two in and two
13 out.

14 MR. FRANKLIN: Two in, two out.

15 MR. HARDMAN: Two trips out per day.

16 MR. FRANKLIN: By vans of what size?

17 MR. HARDMAN: Caravan size. It's just a regular
18 van.

19 MR. FRANKLIN: Okay. We're not talking about
20 what is commonly called trucks or trailers?

21 MR. HARDMAN: No.

22 MR. MORRIS: Fifteen footers.

23 MS. REID: What time do they generally pick up -
24 -

25 MR. HARDMAN: Typically, between the hours of
26 10:00 a.m. and 11:00 a.m.

1 MS. REID: Okay, so that traffic would not be at
2 the same time or coincide with the traffic plan that Mr.
3 Morris gave us initially?

4 MR. MORRIS: That's correct.

5 MS. REID: Basically, it would have no bearing
6 on it.

7 MR. HARDMAN: No, not at all.

8 CHAIRPERSON HINTON: The public school Head
9 Start Program, does that provide breakfast or lunch?

10 MR. HARDMAN: I didn't understand your question.

11 CHAIRPERSON HINTON: The public school Head
12 Start Program, what meal does that provide?

13 MR. HARDMAN: Oh, lunch. Let me clarify that.
14 The public school program, that's a site for 17 infants, so
15 it's not -- I don't want you to confuse it by thinking it's
16 the entire public school system. It's a Head Start site that
17 serves 17 infants.

18 CHAIRPERSON HINTON: Okay.

19 MR. HARDMAN: But it's operated by the DC Public
20 School's Head Start Program. That might be part of the
21 confusion when you see public school.

22 CHAIRPERSON HINTON: Right. And it's listed
23 here as one of the things that the meals serve, and it says
24 "and the DC Public School Headstart Program." So, you might
25 note that that's one site that serves 17, is that right?

26 MR. HARDMAN: Correct.

1 CHAIRPERSON HINTON: Okay. There was some, I
2 thought, confusion about the delivery of products to the site,
3 food and things like that. Would someone like to just clarify
4 for the record, is that one truck per week? Two trucks per
5 week?

6 MR. MORRIS: The food delivery, that's one per
7 week. That's a large truck, once per week.

8 CHAIRPERSON HINTON: Tractor trailer?

9 MR. MORRIS: Yes.

10 CHAIRPERSON HINTON: Are there other deliveries?

11 MR. MORRIS: Just with vans and small trucks,
12 but just the one tractor trailer per week.

13 CHAIRPERSON HINTON: Now, if the central kitchen
14 wasn't at the site, would you still have a tractor trailer
15 coming once-a-week?

16 MR. HARDMAN: No, we would not.

17 CHAIRPERSON HINTON: I guess those items would
18 be delivered in a smaller truck? I mean, you're still going
19 to get some kind of food delivered because you still have the
20 meals for the children that are going --

21 MR. HARDMAN: Well, it would be the same as any
22 other center. They would be approached by a van.

23 CHAIRPERSON HINTON: A van.

24 MR. HARDMAN: So, if it was done in that case.
25 But given the size of this facility -- we're talking about 100
26 children -- it would probably have the meals done right there

1 on site at the kitchen that was within that site at Brady
2 Hall.

3 CHAIRPERSON HINTON: Okay. Do you have a
4 loading area for that tractor trailer?

5 MR. GLASGOW: Yes. There's an area where it can
6 go because of when those trucks generally arrive and where it
7 would be doing the drop-off.

8 CHAIRPERSON HINTON: Could we have somebody show
9 that on the plan?

10 MR. GLASGOW: Yes, Mr. Bryant can show where
11 that would be.

12 CHAIRPERSON HINTON: Where's the kitchen?

13 MR. BRYANT: The kitchen is in the ground level
14 of this space. There's a wrap and loading dock area access
15 into the kitchen area and this space is reserved for the
16 vehicle, service vehicle deliveries along this edge.

17 CHAIRPERSON HINTON: So, a tractor trailer is
18 going to get in there by doing what?

19 MR. MORRIS: It's going to pull up ahead and
20 back in and then pull straight in. Pull straight in and back.

21 MR. BRYANT: Pulls in, reverses at this position
22 --

23 MR. MORRIS: And then pulls straight out.

24 CHAIRPERSON HINTON: Okay. Do we have any other
25 questions? No.

26 I have one thing I need to look at. Okay, I'm

1 going to read this and I might have a question later. But I
2 think we're concluded with our questions.

3 We have actually two parties. Let me ask the
4 two parties. Do you have cross examination for the applicant?
5 Do you need a few minutes to confer? Why don't we take a five
6 minute break then? Thanks.

7 (Whereupon, off the record at 4:36 p.m., until
8 4:52 p.m.)

9 CHAIRPERSON HINTON: Let's reconvene, please,
10 everybody? Can we come back to order, please?

11 Okay, we were about to ask the parties if they
12 had any questions for cross examination of the applicant?

13 MR. ESHELMAN: We do.

14 CHAIRPERSON HINTON: Mr. Eshelman, yes?

15 MR. ESHELMAN: Thank you for the short break. I
16 appreciate it very much.

17 I have initially, a question for Mr. Morris -- a
18 series of questions for Mr. Morris.

19 CHAIRPERSON HINTON: Okay. You can stay there.

20 For the record, this is Mr. Eshelman,
21 representing the Carmelites.

22 MR. ESHELMAN: Eighth Street is a private road,
23 is it not?

24 MR. MORRIS: Yes, it is.

25 MR. ESHELMAN: Now, it's not dead-end, is it?

26 MR. MORRIS: I believe it is.

1 MR. ESHELMAN: Doesn't it go back to Carroll
2 Manor?

3 MR. MORRIS: Yes, but it doesn't go all the way
4 through. Anybody who goes up that street has to turn around
5 and come back down.

6 MR. ESHELMAN: Now, do you know what kind of a
7 facility Carroll Manor is?

8 MR. MORRIS: It's, I believe, a nursing home.

9 MR. ESHELMAN: And did you calculate how many
10 emergency vehicles may have to go back into that center?

11 MR. MORRIS: I did not.

12 MR. ESHELMAN: Was there any consideration given
13 to the times when emergency vehicles would be expected into
14 that center at all, Carroll Manor?

15 MR. MORRIS: Did not make any such estimate.

16 MR. ESHELMAN: Did you consider the fact that
17 there's a Police and Fire Clinic that is also going to be
18 located within the immediate area of Eighth Street?

19 MR. MORRIS: Yes, directly opposite Tenth Street
20 at Varnum.

21 MR. ESHELMAN: Did you calculate that in your
22 traffic calculations?

23 MR. MORRIS: I took that into consideration,
24 yes.

25 MR. ESHELMAN: Did you consider staff parking in
26 connection with the drop-off of children at the center? I was

1 behind the chart, but my sense from the testimony was that the
2 parents, if they were to escort the children in, would pull
3 into the parking places there. I don't know how many there
4 were, but was staff parking considered in the availability of
5 parking places versus the number of parents who may be wanting
6 to escort their children in or the number of staff who would
7 be available?

8 MR. MORRIS: Yes.

9 MR. ESHELMAN: To escort them in.

10 MR. MORRIS: Sure. When I calculated the number
11 of parking spaces for the staff, it was for the total staff,
12 if you will recall.

13 MR. ESHELMAN: What's that number? That number
14 was -- was that number --

15 MR. MORRIS: Forty-two.

16 MR. ESHELMAN: Fifty-two?

17 MR. MORRIS: Right, a total of 52, that's
18 correct. Yes, and as I said, some of those would arrive
19 before 7:00 and some of those would arrive later in the
20 morning, 10:00. So that, the ones who would be coming later,
21 we would not need spaces for them. So, there would be spaces
22 available at all times while the parents are dropping off the
23 children.

24 MR. ESHELMAN: Okay. How many spaces?

25 MR. MORRIS: Well, I figured 19 spaces total for
26 the staff. If we're talking about 60 percent of those coming

1 in first thing in the morning, that would leave at least seven
2 spaces available, plus the excess. I figured a total demand,
3 peak demand at 29, and we have 31 spaces.

4 MR. ESHELMAN: Peak demand of 29, 19 of which
5 would be used by staff at any one time, correct?

6 MR. MORRIS: That's the maximum accumulation for
7 staff, yes.

8 MR. ESHELMAN: Which would leave 20 that would
9 be available for parents wishing to pull in to drop their
10 children off?

11 MR. MORRIS: Approximately that, yes.

12 MR. ESHELMAN: Now, would those places all be on
13 the front of the building or would staff be designated to part
14 somewhere other than the entrance where the children would be
15 coming in?

16 MR. MORRIS: Well, as was suggested earlier,
17 there's some of the spaces in the front that could be reserved
18 to prevent blocking those spaces. But obviously, that's
19 easily handled with an administrative decision to keep certain
20 spaces open. The staff, for example, would be required to
21 park -- the ones who come in early would be required to park
22 certain places so they'd leave space open for parents.

23 MR. ESHELMAN: Is there any rule of thumb on the
24 number of pedestrian accidents per trip that you use in the
25 traffic business? I mean, like the number of cars passing at
26 a certain point, is there a statistic of how many pedestrian

1 incidents that would be involved?

2 MR. MORRIS: No, there's no such statistic, to
3 the best of my knowledge and I've been doing traffic
4 engineering for more than 40 years.

5 MR. ESHELMAN: In traffic in general though,
6 isn't it fair to say that where there are high concentrations
7 of children, there's more danger of children darting in front
8 of vehicles, things of that sort?

9 MR. MORRIS: No, not when they're accompanied by
10 parents or staff. The danger with children darting in front
11 of cars, as I know unfortunately from personal experience, is
12 when they're playing at home and they dart out to chase after
13 a ball. They're in a controlled situation here.

14 MR. ESHELMAN: Okay. You gave no consideration
15 to emergency vehicles going back to Carroll Manor, correct?

16 MR. MORRIS: I don't know what you mean by no
17 consideration. I did not estimate the number of emergency
18 vehicles that would go there, no.

19 MR. ESHELMAN: Did you consider emergency
20 vehicles in route to Providence Hospital during the hours in
21 question?

22 MR. MORRIS: I made no such estimate of that,
23 no.

24 MR. ESHELMAN: So, that would be over and above
25 whatever you testified to in terms of congestion. If there
26 were, say, a fire at Carroll Manor, then they would have to

1 get down Eighth Street to it with a hook and ladder, correct?

2 MR. MORRIS: Obviously, they would. But when
3 you say I didn't take into consideration these things, they're
4 all part of existing traffic and I measured existing traffic.
5 Obviously, I didn't see any three alarm fires that fire
6 engines were responding to, but I'm sure that occurs on
7 occasion.

8 MR. ESHELMAN: How wide is Varnum Street?

9 MR. MORRIS: Thirty-four feet.

10 MR. ESHELMAN: How much parking is allowed on
11 it, both sides?

12 MR. MORRIS: No, just the south side.

13 MR. ESHELMAN: So, how many lanes pass in each
14 direction?

15 MR. MORRIS: One lane in each direction.

16 MR. ESHELMAN: All right. How wide is Eighth
17 Street?

18 MR. MORRIS: It's a private street. I don't
19 know. It's probably also a 34 foot street.

20 MR. ESHELMAN: What's the condition of Eighth
21 Street? Did you view it?

22 MR. MORRIS: Yes, of course. I drove over it,
23 surely.

24 MR. ESHELMAN: Is it in good repair?

25 MR. MORRIS: No.

26 MR. ESHELMAN: Does it have a lot of potholes in

1 it?

2 MR. MORRIS: It has potholes.

3 MR. ESHELMAN: Now, when you put a tractor
4 trailer on Eighth Street, is that going to improve the
5 condition of Eighth Street?

6 MR. MORRIS: It's not going to improve it. It's
7 not likely to particularly deteriorate it.

8 MR. ESHELMAN: Have you considered the impact on
9 the traffic pattern of the poor condition of Eighth Street, or
10 are you going to improve Eighth Street as part of this
11 package? I didn't see that.

12 MR. MORRIS: To the best of my knowledge, that
13 is not part of the package.

14 MR. ESHELMAN: Now, Eighth Street is how many
15 lanes?

16 MR. MORRIS: It would be one lane in each
17 direction.

18 MR. ESHELMAN: Any parking on Eighth Street?

19 MR. MORRIS: I don't know any restrictions
20 against it since it's a private street.

21 MR. ESHELMAN: But as I understand the testimony
22 -- and again, I was behind the chart -- you propose to put a
23 tractor trailer in, down Eighth Street and then back it in
24 beside the day care center, is that correct, or the child care
25 center?

26 MR. MORRIS: That's correct.

1 MR. ESHELMAN: Now, am I correct that you're
2 proposing to back it over the area that had previously been
3 testified would be a playground?

4 MR. MORRIS: No.

5 MR. ESHELMAN: I thought that was where the
6 playground was going to be, in that area adjacent to the
7 building there that the tractor trailer would back up into.

8 MR. MORRIS: The tractor trailer is going to
9 back into a driveway. It's not a playground.

10 MR. ESHELMAN: Well, we'll ask where the
11 playground is going to be. I must have just misunderstood.

12 When we're talking about walking to the -- how
13 many did you say you thought would walk to the facility?

14 MR. MORRIS: Twenty-five percent.

15 MR. ESHELMAN: Twenty-five percent. Now, Mr.
16 Reed had testified, I believe, that he considered the
17 immediate vicinity anywhere within Ward 5. Is your 25 percent
18 number composed of children from anywhere within Ward 5?

19 MR. MORRIS: No, within walking distance.

20 MR. ESHELMAN: And what is walking distance?

21 MR. MORRIS: Half-a-mile.

22 MR. ESHELMAN: Was any consideration given for
23 the need within a half-a-mile for increased day care, that
24 you're aware of? It may not be a question for you.

25 MR. MORRIS: It's not a question for me.

26 MR. ESHELMAN: Now, we had some discussion of

1 commercial traffic and we've talked about one tractor trailer.
2 Would vendors be delivering to the central kitchen daily,
3 things like bread, vegetables, et cetera?

4 MR. MORRIS: You'll have to ask the operator of
5 the facility.

6 MR. ESHELMAN: Did you consider any deliveries
7 other than the tractor trailer?

8 MR. MORRIS: Certainly, the vans. Two vans per
9 day, two trips for each one.

10 MR. ESHELMAN: Okay. When you talk about vans,
11 are we talking about step vans? I see poultry trucks,
12 sometimes 2½ ton trucks that make commercial deliveries. Is
13 that what you're talking about?

14 MR. MORRIS: No, these are vans that would be
15 owned by the day care center and they would be your normal
16 type van. Not the step van you're referring to, but the kind
17 of van that you would go out and purchase to -- that would
18 carry maybe ten people.

19 MR. ESHELMAN: So, there are going to be no
20 commercial deliveries other than the tractor trailer?

21 MR. MORRIS: I didn't say that. You'll have to
22 ask the operator of the facility.

23 MR. ESHELMAN: But you did not consider
24 commercial deliveries in the traffic report that you made,
25 other than the tractor trailer?

26 MR. MORRIS: I made my evaluation based on peak

1 hour conditions and the questions you're asking me are all
2 trips that would be generated off-peak hour and would not
3 aggravate the existing condition that the community is
4 concerned with.

5 MR. ESHELMAN: Well, I used to run in the
6 morning between 6:45 and 7:45.

7 CHAIRPERSON HINTON: Excuse me. You can't
8 testify.

9 MR. ESHELMAN: I understand.

10 CHAIRPERSON HINTON: You can do that later.

11 MR. ESHELMAN: It seems like the commercial
12 deliveries occur in the morning in those hours, 6:45 to 7:45
13 to restaurants, et cetera.

14 MR. MORRIS: The vans that were testified to
15 earlier, one leaves at 10:00 and comes back, I believe about
16 2:00. The other one comes back -- maybe earlier. One goes
17 out and comes back by 4:00. So, their earliest van goes out
18 at 10:00 and the last van comes back at 4:00.

19 MR. ESHELMAN: I mean deliveries to the central
20 kitchen, not the vans of the day care center.

21 MR. MORRIS: Are you talking about the tractor
22 trailer?

23 MR. ESHELMAN: No, I'm talking about deliveries
24 to the center for things like bread, vegetables, and fresh
25 meat, poultry, that sort of thing.

26 MR. MORRIS: I don't know what those deliveries

1 are.

2 MR. ESHELMAN: In other words, you didn't
3 consider any of that sort of possibility?

4 MR. MORRIS: The possibility exists. You can
5 bring one of these vehicles in every morning and it's not
6 going to affect your traffic conditions. You can conjure up
7 all kinds of truck deliveries, but you're going to have a
8 difficult time adding more than a couple of vehicles in the
9 peak hour. We're concerned with peak hour conditions because
10 that's the worst case condition.

11 MR. ESHELMAN: But you would agree with me that
12 a truck has a greater impact on traffic than, say, an
13 automobile, passenger car?

14 MR. MORRIS: No, sir. I would not agree with
15 that. It depends on what kind of truck you're talking about.
16 A tractor trailer obviously has a greater impact. A van
17 certainly does not.

18 MR. ESHELMAN: Step van?

19 MR. MORRIS: A step van can operate with the
20 same acceleration, same operating conditions as an automobile.
21 It has not as good a turning radius, but it can accelerate as
22 fast as an automobile.

23 MR. ESHELMAN: Did you give any consideration to
24 the health clinic having an impact on traffic?

25 MR. MORRIS: Yes.

26 MR. ESHELMAN: What was that?

1 MR. MORRIS: I assumed there would be four staff
2 people in the health clinic.

3 MR. ESHELMAN: And where would the patients be
4 drawn from?

5 CHAIRPERSON HINTON: At a microphone, please?

6 MR. GLASGOW: Objection. Madam Chair, the
7 health clinic is a use permitted as a matter of right. Mr.
8 Morris has testified he took it into consideration for
9 whatever relevance it may have, but it is a matter of right
10 use. It is not what we're here before the Board for the
11 special exception relief.

12 CHAIRPERSON HINTON: Could you stay there for a
13 minute?

14 I think Mr. Eshelman is trying to establish how
15 much traffic will be coming to the site on any given day, or
16 however we want to measure that. So, I think that even matter
17 of right uses that are on the site, wouldn't you agree that we
18 would need to look at the traffic associated with those?

19 MR. GLASGOW: No, ma'am. Because if this entire
20 building was a clinic, we wouldn't be here.

21 CHAIRPERSON HINTON: Well, and it's not, is it?

22 MR. GLASGOW: No.

23 CHAIRPERSON HINTON: So, we are here.

24 MR. GLASGOW: So, the increment that is a matter
25 of right use is not relevant to the consideration of the
26 Board. It's the special exception. Otherwise, you're trying

1 a case on part of what is a matter of right use in the context
2 of the special exceptions.

3 CHAIRPERSON HINTON: Well, isn't a lot of the
4 traffic that's in the level of service that's being discussed
5 matter of right traffic, so to speak? I mean, generally, in
6 traffic issues, we look at the amount of traffic that's on the
7 roads and we don't distinguish between matter of right traffic
8 and special exception traffic.

9 MR. GLASGOW: Well, that traffic is there and
10 he's considering the level of service of an intersection.
11 Here, we are before the Board with a special exception, part
12 of which is to deal with what the traffic impacts are with
13 respect to the special exception. If you mix in what are
14 matter of right uses, then the question is, on what basis is
15 the Board granting or denying the application, matter of right
16 uses or the special exception?

17 CHAIRPERSON HINTON: Well, I think we're trying
18 to establish what the existing and the future traffic
19 conditions are going to be. Mr. Morris already testified that
20 he's considered a future fire station that's coming on line.

21 MR. GLASGOW: Correct.

22 CHAIRPERSON HINTON: So, how is that different
23 than this future health clinic that's coming on line?

24 MR. GLASGOW: Because the health clinic is
25 located on this particular site and they were questions with
26 respect to the utilization of this site. We're stating that

1 we have certain uses that are permitted as a matter of right.

2 CHAIRPERSON HINTON: Well, I think we're talking
3 about traffic in the area.

4 MR. GLASGOW: Well, I think at some point then
5 you're, in a sense, outside the bounds of what the special
6 exception criteria is for deciding the application.

7 CHAIRPERSON HINTON: We traditionally look at
8 the traffic that's on the surrounding roads as it exists and
9 as it's expected to be. If there are uses that we know that
10 are coming on line, we generally add those into the projected
11 figures, whether those uses are on the site or off the site.
12 As Mr. Morris has already testified that he knows that there
13 is a fire station coming on line so he added those into the
14 proposed -- or to the expected figures.

15 MR. GLASGOW: All right. Well, I've noted my
16 objection. I'm ready for the Chair to rule.

17 CHAIRPERSON HINTON: Okay. It's overruled.
18 Why don't we continue with the questions?

19 MR. ESHELMAN: How much traffic would there be
20 associated with that, that you considered?

21 MR. MORRIS: Between 6:45 and 7:45, you would
22 have staff coming. You would not have people coming to the
23 health clinic for services.

24 MR. ESHELMAN: Would those people coming to the
25 health clinic be associated with the school or the day care
26 center necessarily, or additional people?

1 MR. MORRIS: The people who need services of the
2 health clinic? You'll have to ask the people who will operate
3 the facility. That's not a traffic issue.

4 MR. ESHELMAN: That's it.

5 CHAIRPERSON HINTON: That's it?

6 You're representing the ANC?

7 PARTICIPANT: I'm Commissioner Derek Parks and
8 this is the Chairman Joseph Bowser -- ANC.

9 CHAIRPERSON HINTON: The way we normally handle
10 cross examination is normally one person from each party can
11 ask questions. So, we need to ask you just to consolidate
12 your questions and have one person ask them.

13 MR. BOWSER: Will we have an opportunity later
14 on to put something on the record?

15 CHAIRPERSON HINTON: Absolutely. This is just
16 for questions of the applicant. You have an entire part of
17 the hearing where you can put your case on the record.

18 MR. BOWSER: Okay. My question would be how
19 many cars did you state from the Police and Fire Clinic that
20 you expect to be in that area?

21 MR. MORRIS: I didn't state, sir.

22 MR. BOWSER: I mean, you said you projected
23 something. What was your projection based on?

24 MR. MORRIS: I have a projection, a traffic
25 study that was done for Providence Hospital by O.R. George and
26 Associates, which took into consideration the number of

1 oncoming land uses and that was one of them. So, they are
2 included in the traffic that I show in my report.

3 MR. BOWSER: Okay, so you're saying that that
4 little small amount, 96 and 46, they're included in that?

5 MR. MORRIS: I'm sorry, what's the 96 and 46?

6 MR. BOWSER: I mean, you had some figures. I
7 don't know what the exact figures were, but you had some
8 figures in the report that you submitted here. Are those the
9 figures you're talking about?

10 MR. MORRIS: The figures in my report show the
11 amount of traffic going through the intersection of Tenth
12 Street and Varnum Street and they're included in that.

13 MR. BOWSER: Okay, well, yes, okay. They're
14 included in that?

15 MR. MORRIS: Yes, sir.

16 MR. BOWSER: Okay. Now, did you take into
17 consideration that that Fire and Police Clinic would be
18 operating for 16 hours?

19 MR. MORRIS: Sure. We focused on the peak
20 hours, as I mentioned, 7:30 to 8:30 and 5:00 to 6:00.

21 MR. BOWSER: Okay, that's all. Because it would
22 seem to me that you would make a rational assumption that a 16
23 hour operation, at least one car per hour would come through
24 that. So, it could double more than that, but that's fine.

25 That's all I have to say.

26 MR. ESHELMAN: I would like to ask Mr. Bryant a

1 question.

2 With regard to the encroachment, if I understand
3 the design that you've put together for this building, the
4 central kitchen is going to be in the northeast corner, which
5 is the area of the encroaching portion of the building,
6 correct?

7 MR. BRYANT: The north wing, yes.

8 MR. ESHELMAN: How would that not be used so as
9 not to cause a conflict with the existing zoning on the --

10 MR. BRYANT: There are at least two ways in
11 which it could happen. There are -- is to not occupy the
12 space at all. The other is to occupy it only for a use that
13 would, in fact, be a matter of right use.

14 MR. ESHELMAN: Okay. I suppose your plan is to
15 rehabilitate that portion of the building as well, not to let
16 it continue to decay?

17 MR. BRYANT: The plan would be to address that
18 area in a projected matter of right use that would protect the
19 property and the building.

20 MR. ESHELMAN: And it's adjacent to the kitchen?

21 MR. BRYANT: Yes, it is.

22 MR. ESHELMAN: So, what would that use be?

23 MR. BRYANT: Storage is one use to which it
24 could be put as a matter of right.

25 MR. ESHELMAN: So, have you projected that in
26 your plan?

1 MR. BRYANT: No, we have not at this time.

2 MR. ESHELMAN: Okay, what have you projected in
3 your plan at this time?

4 MR. BRYANT: We have not finalized our plans for
5 that area of the building pending the resolution of these
6 conversations.

7 MR. ESHELMAN: But it would not be permitted to
8 continue to decay in any event?

9 MR. BRYANT: No, I would -- I would not think
10 that would be in the interest of the owners, present owners or
11 future owners, and I would not recommend that it be allowed to
12 continue to decay.

13 MR. ESHELMAN: Has there been any consideration
14 given to drop objections from the other owners of Eighth
15 Street, to dropping children off in front of Brady Hall? Are
16 you aware of any objections from other owners on Eighth
17 Street?

18 MR. BRYANT: No, I am not aware of any
19 objections.

20 MR. ESHELMAN: That's all I have.

21 MR. PARKS: The question I have for Mr. Bryant
22 is in reference to --

23 CHAIRPERSON HINTON: Sir, could you identify
24 yourself for the record?

25 MR. PARKS: I'm Commissioner Derek Parks, 5805.

26 CHAIRPERSON HINTON: Thank you.

1 MR. PARKS: The question I have for Mr. Bryant,
2 the architect, is pertaining to the land use in which Brady
3 Hall sits on.

4 I notice here in the diagram that two portions
5 of the rear of this building encroaches on to the Carmelite
6 Sisters' property. I believe in the meeting we had with you
7 that you stated that you wanted the Sisters to trade this
8 portion of the property for the back portion that was sitting
9 on your property. Is that correct?

10 MR. BRYANT: Yes.

11 CHAIRPERSON HINTON: Please don't answer. Could
12 you get a microphone, please?

13 MR. GLASGOW: Madam Chair, that was not part of
14 this witness' testimony on direct presentation, so I object to
15 the question.

16 CHAIRPERSON HINTON: Could you repeat the
17 question?

18 MR. PARKS: In our community forum that we held
19 -- the ANC, during the presentation on February 11th, Mr.
20 Bryant and associates stated to us that this -- I call it a
21 finger portion, the north portion of land that sticks out like
22 a little finger.

23 CHAIRPERSON HINTON: Yes, I see it.

24 MR. PARKS: Here on the map -- they wanted to
25 swap this property for the 21 feet by 48 feet that encroaches
26 on to the Carmelite Sisters' property. Even today, sitting

1 here, they still haven't adequately attest to how they're
2 proposing to rectify this legal matter. There still is a lot
3 of legal entanglement with this building that hasn't been
4 resolved at this point.

5 CHAIRPERSON HINTON: Okay. First of all, I
6 agree that there wasn't testimony about that finger portion
7 being swapped. It's not in the hearing at all. It's not in
8 what was written and it wasn't talked about, so it's not a
9 proper cross examination question.

10 I believe the attorney, in the very beginning of
11 the hearing, did talk about the title to the property and the
12 easement and the encroachment, and the status of that part of
13 the building that seems to be on the adjacent lot.

14 MR. PARKS: Right, okay.

15 I have a question for Mr. Davis, William Davis.

16 CHAIRPERSON HINTON: Okay.

17 MR. DAVIS: Yes, sir?

18 MR. PARKS: You alluded to earlier about the
19 vehicle that will be delivering produce to proposed site of
20 441 Eighth Street.

21 MR. DAVIS: Which is Brady Hall, yes.

22 MR. PARKS: Which is Brady Hall, right.

23 At our forum that we entertained your
24 presentation, you never made it clear exactly what type of
25 vehicle was making a delivery.

26 MR. DAVIS: And there's a reason why we didn't

1 make it clear.

2 MR. PARKS: Today, you're stating that there is
3 a tractor trailer. The reason why I'm getting to that, the
4 tightness of Varnum Street in the 900 block. The street dead-
5 ends. It's just hard to see where this truck is actually
6 going to turn around at.

7 MR. DAVIS: That is more of a question for the
8 architect, but I can answer part of your question.

9 MR. PARKS: Okay.

10 MR. DAVIS: Which is why I didn't testify about
11 the tractor trailer.

12 MR. PARKS: Please do.

13 MR. DAVIS: Okay. One of the residents of the
14 community asked a question about the kitchen and what was
15 going to happen with the kitchen. Just as I was about to
16 answer it and Travis Hardman, the executive director was about
17 to answer it, you said, "hey, I don't want to hear any of this
18 stuff. I want to talk about something else." So, we never
19 got a chance to answer it.

20 MR. PARKS: Well, you can answer it at this
21 time.

22 MR. DAVIS: Okay, I'll be glad to.

23 We have projected one tractor trailer coming
24 once-a-week. We're going to try to make sure that that
25 delivery occurs at a time that is definitely not in the peak
26 traffic. We're going to try to pick a time when it can occur

1 when it has no impact really on the traffic. That's number
2 one.

3 Now, to the extent that other delivery trucks
4 come to the facility, where again, we have it within our power
5 to make sure that those trucks come at a time where there will
6 be no impact on the traffic. That's what I would have said if
7 I had had a chance to answer the question at the community
8 meeting.

9 MR. PARKS: Now, at this time, you just stated
10 that there will be more trucks making deliveries? Am I
11 hearing you correctly?

12 MR. DAVIS: Well, I'm saying to the extent that
13 there is any delivery vehicle -- there is going to be not only
14 trucks that are related to the kitchen, but there may be a
15 truck delivering furniture to the center, or trucks delivering
16 some other goods to the center. We will try to make sure that
17 whenever there is a need to have a delivery involving a truck
18 coming to the center, that it occurs in off-peak traffic
19 hours.

20 MR. PARKS: Well, I can understand a truck
21 making a delivery for furniture. That's unscheduled. But in
22 the meeting, we asked you about -- and I'm quite you can give
23 a reasonable amount of vehicles that's going to make
24 deliveries on a daily basis.

25 MR. DAVIS: Right.

26 MR. PARKS: This question is why I'm asking you

1 now because it was never really clarified at the two meetings
2 that we held. But now today, I'm hearing that there's a
3 tractor trailer. Now there's a possibility of other produce
4 vehicles making deliveries also. But I still haven't heard a
5 real number.

6 MR. DAVIS: Well, I did talk to the executive
7 director about that. We project no more than three trucks a
8 week of any type.

9 MR. PARKS: And approximately what times?

10 MR. DAVIS: That is something, as I testified,
11 that once we're in the building and we see what the traffic
12 conditions are like, we're going to make sure that those
13 trucks deliver at times that have no impact on peak hours of
14 traffic in the area.

15 Now, I've been out at that area many times and
16 stood in the middle of the street, and there's been absolutely
17 no traffic at the corner of Eighth and Varnum Street during
18 most of the day. If you were to go out there, you'd see that
19 it's virtually a vacant piece of --

20 MR. PARKS: Not cutting you off, but may I ask
21 at this moment, what times of the day are you standing there
22 that you don't observe any traffic --

23 MR. DAVIS: Well, I've been there a lot --

24 MR. PARKS: -- coming through? I'm assuming
25 we're talking about Tenth and Varnum?

26 MR. DAVIS: No, I'm talking about Eighth and

1 Varnum.

2 MR. PARKS: Eighth and Varnum.

3 MR. DAVIS: This is where the Brady Hall is.

4 MR. PARKS: Okay.

5 MR. DAVIS: Okay? If you were to go out on an
6 average day and stand on the street at Eighth and Varnum
7 around 10:00 until about 4:00, it's virtually no traffic. The
8 reason there's virtually no traffic is that these institutions
9 -- and once the people get to the institutions to go to work,
10 you know, then there's the casual visitor that comes.

11 I want to also point out in answer to Mr.
12 Eshelman that there is another way, a very important access
13 way to Carroll Manor that does not come down Eighth Street.
14 It comes through that big parking lot at Providence Hospital.
15 If I were going to get a fire vehicle to Carroll Manor, I
16 would consider taking that route over Eighth Street.

17 CHAIRPERSON HINTON: Okay, we're in cross
18 examination at this point, so -- yes, try to just ask
19 questions and you just answer the questions that are asked,
20 okay?

21 MR. DAVIS: I'm sorry, okay.

22 MR. PARKS: Madam Chair, he touched on a
23 question I was going to ask later. But since he has already
24 touched on it, I guess the door is open for me to ask a
25 question.

26 MR. DAVIS: Whoops, I did that. Okay.

1 MR. PARKS: I understand from the fire
2 department that to enter Carroll Manor in which you are
3 speaking about, their emergency route is Twelfth Street, north
4 on Twelfth Street to -- correction, west on Varnum Street to
5 Eighth Street and then they proceed right, northbound on the
6 so-called Eighth Street which is not a roadway.

7 MR. DAVIS: It's not a public --

8 MR. PARKS: Public roadway.

9 MR. DAVIS: Yes.

10 MR. PARKS: That leads to the main entrance to
11 Carroll Manor, okay. You're correct in reference to traffic
12 coming through the parking lot, but the main emergency and
13 access to Carroll Manor is the so-called 4400 block of Eighth
14 Street. That is the emergency route that the fire department
15 and police department uses.

16 CHAIRPERSON HINTON: Okay, Mr. Parks, you're
17 pretty much testifying here.

18 MR. PARKS: Okay. I'm just --

19 CHAIRPERSON HINTON: You'll have all the
20 opportunity in the world to testify for your own case. You
21 just need to ask questions if you have any questions.

22 MR. PARKS: Okay. All right.

23 The second question I have is pertaining to this
24 package that was delivered on March 5th that I was never
25 privileged to have received. Any particular reason why I
26 didn't get a copy of them until today?

1 MR. DAVIS: Well, the lawyers prepared the
2 package and they were required to submit it to the BZA by
3 March 10th. I don't know whether there's a requirement that
4 we also submit one to ANC. I think it becomes part of the
5 public record and anybody can consult the package.

6 MR. PARKS: Well, pertaining to our meeting that
7 we had in early February, we asked you to be straightforward
8 in giving us information pertaining to exactly what your plans
9 were. Can you answer this at this point, why the application
10 has been changed at least five times from the original
11 application?

12 MR. DAVIS: Well, I'm going to give you an
13 answer and I'll give our counsel to give you an answer.

14 MR. GLASGOW: Mr. Davis, I'm raising objection.

15 MR. DAVIS: Oh, okay.

16 MR. GLASGOW: I objected to the question as it
17 is beyond the scope of his direct examination.

18 CHAIRPERSON HINTON: Actually, I remember
19 someone testifying that there were changes. That it had been
20 --

21 MR. GLASGOW: Yes, I explained that in the
22 opening statement.

23 CHAIRPERSON HINTON: Okay.

24 MR. GLASGOW: I can't get cross examined but I
25 stated that we had submitted a change to the application.
26 We've cut the number of students and persons in the day care

1 center in half. It was originally filed at 300 and it's now
2 at 150.

3 CHAIRPERSON HINTON: And I think you stated that
4 as the architects looked into the --

5 MR. DAVIS: I said that.

6 CHAIRPERSON HINTON: You did?

7 MR. DAVIS: Yes.

8 CHAIRPERSON HINTON: So, he did.

9 MR. DAVIS: I'm willing to answer.

10 CHAIRPERSON HINTON: Yes, let's just --

11 MR. DAVIS: I'll repeat what I said when I was
12 testifying. Last winter in November whenever we filed the
13 application for the first time, we were not certain exactly
14 how many students we wanted to put in this building. To be on
15 the safe side, and I'll take the fall for this, I asked high.
16 Then our architect got into the building with the engineers
17 and we looked at the day care requirements, the parking
18 requirements. The architect came back and he said, "you've
19 got too many children to meet the code requirements. You've
20 got to cut down from 150 to 100."

21 Then I asked the executive director of the
22 program, I said "we submitted an application that said 150
23 students in the private school training program. Are you
24 really going to have 150 students sitting there in a
25 classroom?" He said, "no, we're never gong to have that many
26 students. The most we'll ever have at any one time is 50."

1 So then, I alerted our attorneys to the fact that we needed to
2 reduce the number in our application. They said "when we file
3 a statement, we'll reduce it."

4 We had a meeting with you and Mr. Bowser before
5 the --

6 CHAIRPERSON HINTON: I think that you've
7 answered it.

8 MR. DAVIS: Oh, okay.

9 CHAIRPERSON HINTON: Thank you.

10 MR. PARKS: I have another question. At our
11 community meeting that I set up, I notice on the application
12 it has Norman H. Glasgow, Jr., Wilkes & Artis law firm. Is
13 that correct? I think at the time of doing the presentation,
14 you informed me that they were not the participants. But I
15 find today -- I mean, can you please iterate who's handling
16 what for National Day Care Association? I was under the
17 assumption when we met that you were the PR man.

18 CHAIRPERSON HINTON: Well, I think it's kind of
19 clear from the testimony today.

20 MR. PARKS: I just wondered because there has
21 been a lot of flip-flop back in information as to who's
22 handling what.

23 CHAIRPERSON HINTON: Okay.

24 MR. DAVIS: Mr. Glasgow is our --

25 MR. PARKS: Let me ask you this last question
26 then. I'll get away from that.

1 MR. DAVIS: Okay.

2 MR. PARKS: Is it true that the National Child
3 Day Care Association has a contract with Human Services to
4 provide for the AFDC Real Chance program?

5 MR. DAVIS: Would you mind if I referred that
6 question to the executive director?

7 MR. PARKS: Oh, you didn't --

8 MR. DAVIS: It's not within my area of
9 expertise.

10 CHAIRPERSON HINTON: Did anybody testify to that
11 today?

12 MR. DAVIS: I don't think anyone testified to
13 it.

14 CHAIRPERSON HINTON: So, you can't ask it in
15 cross examination.

16 MR. PARKS: Okay. That's all I have for Mr.
17 Davis.

18 MR. DAVIS: Thanks.

19 CHAIRPERSON HINTON: Any other questions? No?
20 Mr. Parks?

21 MR. PARKS: No.

22 MR. ESHELMAN: If I may, Madam Chairman, I have
23 one follow-up for Mr. Morris, one short follow-up and that
24 will be it.

25 CHAIRPERSON HINTON: Sure.

26 MR. ESHELMAN: Mr. Morris, do you know how many

1 children arrive starting at 6:45 at the Carmelites' Scrilli
2 School next door to the property?

3 MR. MORRIS: No, sir.

4 MR. ESHELMAN: Did you give any consideration to
5 the number of children or trips that are made to that school
6 or from that school during the 6:45 to 7:45 period?

7 MR. MORRIS: Well, whatever trips are being made
8 are already included in the traffic analysis. Not 6:45 to
9 7:45, it's actually 7:00 to 9:00 with the peak hour being 7:30
10 to 8:30. But whatever trips are being made between the hours
11 of 7:00 and 9:00 are included.

12 MR. ESHELMAN: How many trips are there into the
13 school there?

14 MR. MORRIS: I have no idea.

15 MR. ESHELMAN: Now, if there are 55 children in
16 the school, how many trips would that equate to during those
17 peak periods, based on your experience?

18 MR. MORRIS: It depends on how they arrive and
19 the times they arrive, and how many children per vehicle.

20 MR. ESHELMAN: Now, you said they were included
21 in your traffic calculation.

22 MR. MORRIS: Sure. Any traffic that's going
23 through that area is included in the traffic counts.

24 MR. ESHELMAN: Who included it, you?

25 MR. MORRIS: Yes, the counts that were made
26 included traffic going there, going to Providence Hospital,

1 going anywhere.

2 MR. ESHELMAN: I see.

3 MR. MORRIS: But I can't give you a breakdown as
4 to who was going where.

5 MR. ESHELMAN: You had counts made?

6 MR. MORRIS: I made them.

7 MR. ESHELMAN: You made them?

8 MR. MORRIS: And there was a traffic projection
9 made by O.R. George & Associates.

10 MR. ESHELMAN: And they were a subcontractor to
11 you?

12 MR. MORRIS: No.

13 MR. ESHELMAN: They were a consultant to you?

14 MR. MORRIS: No.

15 MR. ESHELMAN: Well, what's their relationship
16 to this?

17 MR. MORRIS: They made a study for Providence
18 Hospital.

19 MR. ESHELMAN: How does that study relate to
20 this?

21 MR. MORRIS: Because they made a forecast of
22 what the traffic conditions would be like including the number
23 of approved but undeveloped improvements. I wanted to know
24 what the traffic conditions would be like with those other
25 developments included.

26 MR. ESHELMAN: At what points in the grid, the

1 traffic grid, was O.R. George concerned with? Twelfth and
2 Varnum? Tenth and Varnum? Or some other point?

3 MR. MORRIS: A number of points, but I just
4 focused on Tenth and Varnum.

5 MR. ESHELMAN: Okay, thank you.

6 MR. PARKS: I've got a question for, I guess,
7 Mr. Davis or Mr. Hardman in reference to the vehicles that are
8 going to be coming to and from the facility.

9 CHAIRPERSON HINTON: Okay. And then is that
10 your last question?

11 MR. PARKS: Yes, at this time.

12 CHAIRPERSON HINTON: Why don't we hear the
13 question and then we'll see who can answer?

14 MR. PARKS: All right.

15 There was a question earlier in reference to the
16 number of vehicles and I believe in our initial meeting, you
17 had made reference that basically, the majority of parents
18 delivering their kids to a proposed site would be by public
19 transportation. Is that correct?

20 MR. HARDMAN: That is correct.

21 MR. PARKS: So, at this time, you are projecting
22 exactly how many vehicles of delivering the kids to this
23 proposed facility?

24 MR. HARDMAN: In my testimony, I said
25 approximately 30. I'll say it again, a large number, 50 to 70
26 percent based on our experience at other centers, is where we

1 come up with that number as far as the number that will be
2 actually transporting children to the facility.

3 MR. PARKS: All right. I remember you telling
4 before that you had identified -- correct me if I'm wrong --
5 or someone in your organization had identified at least 50
6 kids from the immediate area -- which -- S&D that will be
7 attending that facility. Do you have any information to
8 support that?

9 MR. HARDMAN: My 50 percent figure was based on
10 Ward 5. I also stated in my testimony that the need for child
11 care was going to increase 280 percent based on the Welfare
12 Reform legislation. It's easy to determine that a large
13 number of those parents, given the geographic area, will come
14 from Ward 5.

15 MR. PARKS: So, it's basically the geographic
16 area, Ward 5 as a whole, not a particular--

17 MR. HARDMAN: My testimony spoke to Ward 5 as a
18 whole.

19 MR. PARKS: As a whole, all right.

20 Are you aware that there are other day care
21 facilities along Twelfth Street and Tenth Street?

22 MR. HARDMAN: Yes, I am aware.

23 MR. PARKS: All right.

24 MR. HARDMAN: And I also testified to the fact -

25 -

26 CHAIRPERSON HINTON: You've answered the

1 question. Thank you.

2 MR. HARDMAN: Oh, okay.

3 MR. PARKS: All right. That's it.

4 CHAIRPERSON HINTON: Very good.

5 Why don't we move to the Office of Planning
6 report if you're still awake over there?

7 MS. BAILEY: Wide awake.

8 For the record, my name is Beverly Bailey.

9 Members of the Board, as you can tell, traffic
10 is clearly the principal issue at this site. Now, I wasn't
11 aware of the O.R. George study. I'm not sure if the
12 calculations in that study were taken into consideration with
13 this project or with this area. I can't imagine there being
14 all these traffic problems if the study was for the entire
15 area.

16 The Office of Planning is recommending that a
17 detailed traffic study be prepared of the area and
18 specifically, I'm speaking of Twelfth Street, the railroad
19 tracks, Buchanon Street and Varnum Street. It appears,
20 Members of the Board, that these issues have been a community
21 concern for quite some time. It's not anticipated that this
22 project is going to be the sole generator of traffic in that
23 area. Obviously, from what we've heard today, the problems
24 already exist now. With that said, and of course there's much
25 more discussion to that -- but to be brief, we're recommending
26 approval of the application. We have listed eight conditions

1 in our report for approval.

2 The applicant indicated that there are concerns
3 with number one and number six. Number one indicates that
4 approval should be for a period of five years. The Office of
5 Planning is recommending approval for ten years. I won't go
6 through all of the other recommendations unless you would like
7 for me to. But I would mention number six. The applicant is
8 proposing to have parents as well as staff to escort the
9 children into the building and we don't have a problem with
10 that.

11 To touch on very lightly, some of the other
12 areas, it would be very helpful to have had a map to show all
13 of the neighboring facilities in this area. For example,
14 we've heard of Carroll Manor. We've heard of the clinic where
15 the Police and Fire police officers would be located. We've
16 heard of single-family residential housing. We've heard of
17 Providence Hospital. But there isn't a map to show, in a
18 composite way, how all of these things fit together. There
19 are maps that show bits and pieces of it. How Eighth Street
20 connects into Carroll Manor, I don't have something to offer
21 you to show you how that connection is made. How Buchanon
22 feeds into it -- it doesn't, but how the back of Carroll Manor
23 feeds into the Providence Hospital parking lot, that kind of
24 thing.

25 The last point that I have concerns how the
26 application was advertised, I believe under what is available

1 to the city in terms of the zoning regulations. The Zoning
2 Administrator, the applicant and the city did the best that it
3 can. What we're talking about is a family center and there
4 isn't a specific section in the regulations dealing with
5 family centers. That's something that appears to need
6 addressing by the Zoning Commission. So, what we have is a
7 private school and we have a day care center, but we don't
8 have a family center as such, which is, in essence, what would
9 be required for this project. I'm hoping you're following me.

10 With all of that said, Alberto, would you like
11 to add something?

12 MR. BASTIDA: Yes.

13 The Office of Planning is aware of the
14 definitions, but the Office of Planning can not play this role
15 of the Zoning Administrator. So, I am positive -- the Office
16 of Planning is positive that the Zoning Administrator, based
17 on the existing zoning regulations, has to provide the best
18 possible alternative to put this project in front of the
19 Board. We are sympathetic to the dilemma that the Board has,
20 not only today but in the future, and we have made those
21 comments regarding a better definition of what the functions
22 that are to occur at this facility should be in a different
23 category and should be addressed by the Zoning Commission.
24 But today, this is what we have. It would have a child
25 development center and a private school.

26 Secondly, you know that traditionally, the

1 Office of Planning has been very concerned about negative
2 impacts of traffic-related matters. The Office of Planning
3 always has deferred to the Department of Public Works
4 regarding those matters. Unfortunately, this application was
5 referred to the Department of Public Works and we received no
6 comment from them. Our expertise is on zoning, not on traffic
7 analysis. Accordingly, we'd tried to give the Board the best
8 possible overview, but we can not make a technical find,
9 recommendation, because it is beyond our expertise.

10 Thirdly, condition number six, "the children
11 shall be escorted into the building" could be rephrased by
12 saying "the children shall be properly escorted into the
13 building by a responsible individual". That way, it could be
14 anybody with any function, or anything. We're concerned about
15 the safety of the children going there and that responsibility
16 can be taken care of by any responsible individual that the
17 child development center so chooses to encharge with that
18 awesome obligation of the lives of those small children.

19 That concludes the Office of Planning
20 presentation. If you have any questions, we'll try to answer
21 them. Thank you.

22 CHAIRPERSON HINTON: Thank you.

23 Any questions?

24 MR. FRANKLIN: I have one, Mr. Bastida. The
25 dilemma referred to eludes me. Why is this not a private
26 school which, at least I can tell, is not defined in the

1 regulations?

2 MR. BASTIDA: This is really the role of the
3 Zoning Administrator, but I will try to help you with it. But
4 there is not a definition of private school but there is a
5 private school regulation. The Zoning Administration -- and I
6 was not privy to the negotiation with the Zoning Administrator
7 to determine the classification -- determined that the only
8 way to put this properly in front of the Board was with two
9 issues: a child development center and a private school.

10 MR. FRANKLIN: And is that wrong?

11 MR. BASTIDA: I beg your pardon?

12 MR. FRANKLIN: And what would be the problem
13 with that? Why is there a dilemma with that?

14 MR. BASTIDA: Maybe the word "dilemma" was
15 poorly chosen. It is that it might be better if the Zoning
16 Commission were to look more comprehensively at the child
17 development center and realize that a child development center
18 at the time the regulations were enacted were more of a
19 custodial nature and that was basically it. New findings and
20 new development on the concept of child care has included the
21 well being of the parents and other services that have to be
22 provided in order to obtain the well-being of our children.
23 Accordingly, it has evolved in that nature. It has evolved
24 that way and perhaps the Zoning Commission will have to look
25 at the definition of a child development center to go beyond
26 the custodial nature as it is presently defined in the zoning

1 regulations.

2 MS. BAILEY: What is occurring, and we have seen
3 this in previous applications, to look at the family as a
4 whole, as a unit not just individual parts of the family. But
5 to look at the children, the parents and so forth and the home
6 situation, and look at all of this in a comprehensive way.
7 There isn't a section in the regulations that deals with this.
8 The family needs to be looked at as a unit which is what the
9 applicant is proposing to do here. We've had this occur
10 before. This isn't the first time.

11 MR. FRANKLIN: Well, it seems to me, this
12 discussion is dealing with educational policy. There are
13 students going to be here and there are going to be teachers
14 here. The fact that they may have a holistic attitude toward
15 what they're teaching is irrelevant from a zoning standpoint.

16 So, I think this is a diversion from what the
17 basic issue is before the Board and I don't see any problem
18 with it at all. It's a school. It just happens to have a
19 certain philosophy as to how it's going to teach, but that has
20 nothing to do with how many vehicles are going to come and how
21 many students are going to be there and how many teachers are
22 going to be there.

23 MR. BASTIDA: Well, it does have to do with the
24 zoning regulations, Mr. Franklin, with all due respect,
25 because the regulations in a way, have been left behind by the
26 new philosophy on how to handle our children and take care of

1 our children in these institutions. Accordingly, the Zoning
2 Administrator was in a difficult position to establish under
3 which compartment of the zoning regulations they would put
4 this case in front of you. That has created a series of
5 questions not only perhaps for a couple of Board members and
6 from the community.

7 Unfortunately, we are not the Zoning
8 Administrator so we can not explain the rationale for doing
9 that. But with the Head Start programs, which it goes to a
10 more holistic approach to child development centers and the
11 health, not only physically but mentally of children, a child
12 development center has a -- beyond, as I perceive, to have the
13 regulations define a child development center. And that's
14 where we're coming. It's nothing directed to this case. It
15 was since if there is a member of the Zoning Commission, I
16 wanted to bring that to your attention so you'd take it into
17 consideration and do as you believe would be best for the city
18 and the administer for the zoning regulations.

19 MR. FRANKLIN: Yes.

20 Madam Chair, I don't want to belabor the point.
21 I just don't see it as having any particular relevance to the
22 policies as it relates to the adverse impacts on the
23 neighborhood. So, we'll let it rest at that point.

24 CHAIRPERSON HINTON: Okay. Let's move on.

25 Are there any other questions for OP? No.

26 I had one question. I didn't notice anywhere in

1 the OP report that referenced the central kitchen facility and
2 the meals that would be prepared and then delivered off-site.
3 Did you understand that that was part of the proposal and is
4 that taken into consideration in your assessment of the
5 impacts?

6 MS. BAILEY: You said delivery of meals off-
7 site? This is the first time I've heard that. I mean, I'm
8 sure there was testimony here, but I was not privy to that
9 prior to today.

10 CHAIRPERSON HINTON: Okay.

11 MS. BAILEY: I understand that there would be a
12 central kitchen but not delivery of meals off-site.

13 MS. REID: I'd like to know where that -- came
14 from? Did you find it in your package?

15 CHAIRPERSON HINTON: I found it. Let me find it
16 again.

17 MS. REID: What tab is it under?

18 CHAIRPERSON HINTON: It's under the tab that
19 deals with financing.

20 MS. REID: What number?

21 CHAIRPERSON HINTON: I'm looking for it.

22 MS. BAILEY: I think it's Tab I.

23 CHAIRPERSON HINTON: Oh, and that's the other
24 thing that I was looking for.

25 MS. BAILEY: It's Tab I, the last page under Tab
26 I.

1 MR. BASTIDA: It's a document dated March 5,
2 1997 from Norman M. Glasgow, Jr., if you know him.

3 MS. REID: Not that one.

4 CHAIRPERSON HINTON: It's called "Comprehensive
5 Child and Family Development Center Prospectus." And just to
6 answer your question, Mr. Franklin, I think part of the
7 dilemma that we've been seeing in recent cases is that
8 sometimes programs that are under a child care CFO expand into
9 doing training and counseling for adults. Once it goes beyond
10 child care, it no longer fits in the definition of a child
11 development center. If you look under this Tab I, the first
12 sheet, one of the categories is social services. It talks
13 about the kinds of social services that this program offers.
14 And when you start talking about counseling and crisis
15 intervention and acting as advocates for parents, you sort of
16 may have gone beyond the definition of a private school.
17 You've certainly gone beyond the definition of a child
18 development center because that can only, under the
19 definition, treat people under the age of I think it's 18.

20 MR. FRANKLIN: Well, as you know, Madam Chair,
21 there is no definition of private school in the regulations.

22 CHAIRPERSON HINTON: Well, I do. I agree. But
23 I was just trying to help you understand what part of the
24 problem is. It's fitting --

25 MR. FRANKLIN: Well, I hear what you're saying
26 and I'd like to understand, and perhaps I'm a slow learner,

1 but I don't understand how any of this necessarily relates to
2 the degree to which there will be adverse impacts on the
3 surrounding neighborhood. I mean, there will be, perhaps,
4 more trips generated but that's something we analyze in our
5 normal way of looking at these cases. The fact that something
6 is being done in a holistic way and people are being taught
7 something that is unconventional or is not traditional, seems
8 to me not terribly relevant to -- You know, as long as
9 they are coming in as a private school, we'll look at how many
10 teachers there are, how many staff people, how many students,
11 how much coming and going and the like. The fact that they
12 are being taught parenting skills and other things is part of
13 the curriculum.

14 CHAIRPERSON HINTON: Well, yes, I agree. I
15 think the effort is try to find out what is happening so we
16 can identify the number of trips. That's really the only
17 reason, just so we know what the impact may be on the
18 community.

19 That was my only question for the Office of
20 Planning. Let's see, we have cross examination of OP starting
21 with the applicant.

22 MR. GLASGOW: No cross examination.

23 CHAIRPERSON HINTON: None.

24 And the parties, Mr. Eshelman? No.

25 Mr. Parks?

26 MR. PARKS: No, I do not have anymore.

1 CHAIRPERSON HINTON: Okay. The ANC is next.
2 This is the point in the hearing where the ANC gets to make
3 their case.

4 MR. BOWSER: My name is Commissioner Joseph
5 Bowser. I'm Chairperson of the ANC-5A. Myself and
6 Commissioner Parks will be testifying in this case today.

7 My first concern is the application itself, when
8 they talked about the total of 300, 150 students and 150
9 private staff or whatever. I think in the testimony here, I
10 think we all are wondering what, really, is this facility
11 going to be? When you talk about you're going to downgrade to
12 40 or 50 and you have a facility that can handle 300 and some
13 students or more, I have to question what will happen later on
14 down the line.

15 So, I think that these changes have been made to
16 try to pretend that they're going to meet the needs of what
17 the community or somebody else wants. I really don't think
18 that that's the real rationale. I think even with the
19 drawings that they presented, everybody is confused. I sat
20 down and talked with them before they got to this Board and
21 told them to give us some good drawings that everybody could
22 see and understand. We have no idea how that final picture is
23 going to evolve because he hasn't showed you what the final
24 picture is. You talk about the front of the building on
25 Varnum Street. The front of the building now exists on what
26 is supposed to be Eighth Street. So, I don't know. Everybody

1 is really confused here.

2 The petitions that were submitted here today I
3 think should -- the ANC hasn't had the opportunity to deal
4 with it. You know that the Board deals with only those that
5 are within a 200 feet radius that is effected. I think any
6 other signature that does not deal with the 200 feet radius
7 should be thrown out.

8 The Office of Planning has made some
9 recommendations that have not been given to the community or
10 the ANC and I think they should not be considered i this way
11 at all. I don't think the Office of Planning has the right to
12 make that, or dictate what's going to happen in the community.

13 This case first was put before the Board of
14 Zoning and the Board of Zoning sent them to you, to the BZA.
15 I have some concerns about where you talk about a use by
16 rights and a use that requires an adjustment. If they're all
17 in the same building, how can you separate them out?

18 I also want to call your attention to -- it was
19 clear that a traffic study was not submitted. ANC-58 did a
20 traffic study and it is part of the record. It's part of --
21 in our proposal, and we did it on the 10th of March. It talks
22 about the areas that were talked about, Varnum Street. We're
23 talking about Varnum Street. There's 500 and some cars going
24 in and out. There's 600 going in. There's 624 going out.
25 Tenth and Varnum that was talked about, there's 1,655 cars
26 that come out and 966 that's going out in another area. This

1 was a ten hour study, so this means that this is -- traffic
2 going in and out all day long, going back to those facilities.

3 When you get up at the other end of Varnum
4 Street where you talk about Eighth Street, that's a cul-de-
5 sac. Some of these 500 and some cars are going to those other
6 buildings. You can't turn around in it. If you look on our
7 report, it states that a truck came in there for 15 minutes
8 and blocked the traffic. So, that was a 15 minute traffic --
9 because it couldn't turn around, it had the whole community
10 upset because -- move their car so they could get in and out
11 of this community.

12 So, I want to talk to Mr. Franklin. If you're
13 talking something that is acceptable to the community, that
14 the regulations say that you must consider and that you must
15 give great weight to. These figures represent a strong
16 objection to the community. If you put one more traffic car
17 in there, that's too much coming in and out of Fifth Street.

18 Now, we also talked about the Police and Fire
19 Clinic that's going to bring in additional concerns. It
20 should be in the back of the ANC report, back there. Yes, R.
21 It should look like this. That's going to bring some
22 additional traffic in and that's going to be a 16 hour impact
23 to traffic in that community. The most likeable way --
24 patterns of how people travel that they're going to travel,
25 it's going to be Varnum Street because there's stop signs and
26 no lights. That's subject to travelling Twelfth Street coming

1 in in that exit. It's the closest exit to that. So, they
2 tell me that this is what we need to consider are these things
3 that gives a direct impact on that community.

4 That street that they're talking about going in
5 and out where they want to put off-street parking at, that's
6 only an easement now. That has trees in it. They'll have to
7 tear the trees down to grade some off-street parking. I don't
8 understand how Planning or anything could sit down and support
9 a project like that that nobody in here, not even Zoning and
10 Planning as they talked about, understands what's going on.
11 They haven't clearly given to the community, to the ANC --
12 they were asked up front to do that. You can put all those
13 maps up there. You can talk all you want. Nobody knows what
14 that -- building is going to look like or what they're going
15 to do with it. It wasn't put in the record, but that part of
16 the building that's on somebody else's property -- and all
17 this stuff on somebody else's property, it's very important to
18 what's going to happen.

19 You can't tell me down the line -- and what has
20 happened in that whole area because I live in that area. I'm
21 very familiar with that area. Even with the Providence
22 Hospital area, as you begin to add on, and add on, and add on,
23 it brings additional traffic in it. It causes an adverse
24 effect on any community. And as we all know, traffic causes
25 the worst impact. It causes on the streets, on safety. And
26 when you talk about when you bring in other people, in fact,

1 crime and all increases. People walk and they do break in
2 cars. They do other things. You can not convince me -- and
3 I'm a 30 year resident in that area right on the back -- I
4 live on the back of Buchanon Street the lady was talking, so I
5 know every building and every rock that's been coming up in
6 that area, what the effect on traffic --

7 The reason why Providence Hospital is turned
8 around the way it is is because my diligence in talking about
9 the traffic on Buchanon Street. They were going to exit and
10 enter on Buchanon Street and they knew the community wouldn't
11 accept that. So, they turned it around another way to do
12 this. We can not afford to have not one more traffic in that
13 area. Those people on Varnum Street particularly, have been
14 done a disservice in all these many years to have all that
15 traffic coming up there.

16 If you look at this traffic study that we did,
17 that was a ten hour traffic study. It was done by an official
18 means of Public Works, which was stated in here. He used the
19 Department of Public Works' figures and he had no idea what
20 figures he used. But you can -- they're incorrect. They're
21 not true and they do not represent what's going on in this
22 area. This is what the regulations say. If it has an adverse
23 effect upon the community and this sure impacts upon the
24 community very adversely, very adversely.

25 That's all I have.

26 CHAIRPERSON HINTON: Mr. Parks?

1 MR. PARKS: Yes, I just want to give my
2 statement. I guess Commissioner Chairman Bowser pretty well
3 summed it up. But I'll speak in reference to the traffic
4 reports that was done by the Department of Public Works on the
5 10th of March.

6 It is a great impact of traffic in that area.
7 Within a five to six block radius of Brady Hall, there is
8 residential parking to our limit because of the influx of
9 traffic. You have Vincent Building that's located at 817
10 Varnum Street. That has a parking capacity of 88 parking
11 spaces. You have Carroll Manor that has also a parking space
12 of at least -- about 80 parking spaces on that lot for Carroll
13 Manor. Providence parking lot itself is spilling over on to
14 the street because they can no longer handle the influx of
15 traffic that's coming into that facility. If I'm not
16 mistaken, their parking capacity for Providence is
17 approximately 2,500. Not bearing the traffic that goes into
18 the Association of Retarded Citizens on Varnum Street, 900
19 Varnum.

20 And with the addition with the Police and Fire
21 Clinic coming in at 920 Varnum Street right at the
22 intersection, that really is going to have a real burden with
23 the added traffic. Because on any given day, there's anywhere
24 from five to maybe approximately 800 officers that visit that
25 clinic over in Blue Plains right now. So, that traffic will
26 right now -- even with Providence scheduling their

1 appointments on an hourly basis, those vehicles and those
2 officers and firemen and corrections officers are coming to
3 that facility, along with Secret Service is going to have a
4 lot of impact on the parking. Providence can not maintain the
5 parking that they have right now.

6 CHAIRPERSON HINTON: Okay. We've had --

7 MR. PARKS: So, you know, like I said, on the
8 north side of Varnum Street, there is no parking at all. The
9 street is really not that wide. On any given day when two
10 cars are passing, they are fairly close to one another.

11 CHAIRPERSON HINTON: Okay. So, we've had a lot
12 of testimony about traffic from the other Commissioner. Are
13 there any other issues that you'd want to testify to?

14 I asked a question. Are there any other--

15 MR. BOWSER: Yes, I have one other one.

16 CHAIRPERSON HINTON: Mr. Parks, did you have any
17 other issues you wanted to testify to?

18 MR. PARKS: Yes.

19 In reference to Providence, the hall foundation,
20 it is my understanding that the National Child Day Care
21 Association, when we first met with them, they didn't make us
22 aware of all these documents. With just a little
23 investigative work, uncovered these documents. I'm assuming
24 that a Providence letter here to Wilkes, Artis law firm,
25 DePaul owns Brady Hall located at 44 -- well, it's in your
26 package, Exhibit 5, which is --

1 The DePaul Foundation, owners of Brady Hall, is
2 requesting the zoning approval is requesting the zoning
3 approval so that the sale of the property can be completed.

4 MS. REID: Excuse me. -- the sections are
5 alphabetized. We don't have a Section 5.

6 MR. PARKS: We have Exhibit K --

7 MR. BOWSER: I think simply what that is saying
8 is that that agreement doesn't necessarily say that the DePaul
9 Foundation is agreeing with this purchase. It depends on
10 whether you approve this or not. What we're asking is that
11 you don't approve this application, assuming that the DePaul
12 Foundation has already agreed to sell this property to the
13 child development center because this clearly states that
14 that's not the case.

15 CHAIRPERSON HINTON: Okay.

16 MR. BOWSER: So, we want to clear that up.

17 CHAIRPERSON HINTON: Okay, we have that.
18 Anything else?

19 MR. BOWSER: That's it.

20 CHAIRPERSON HINTON: Mr. Parks, is that all?

21 MR. PARKS: That's it.

22 CHAIRPERSON HINTON: Okay. Could you stay at
23 the table for a moment because we need to give the parties an
24 opportunity to cross examine.

25 Applicant, do you have any cross examination?

26 MR. GLASGOW: I have one question for Mr.

1 Bowser. The report, the traffic report, are you submitting
2 that as a study, an official report, from the Department of
3 Public Works on this case?

4 MR. BOWSER: They took the case, yes. They took
5 the report. They did the study. Yes, I am.

6 MR. GLASGOW: Then I'm going to have the Board
7 request whether or not that that is -- check the record and
8 check with the Office of Planning because their report says
9 there is no DPW report in this case.

10 MR. BOWSER: All they had to do was read my
11 report and they would have seen that it was in there. I
12 submitted my report at the time --

13 MS. BAILEY: We don't have an official report
14 from the Department of Public Works.

15 CHAIRPERSON HINTON: Nor does the Board. The
16 Board hasn't received anything from DPW. The traffic study
17 that was attached to the ANC report looks like this. At the
18 bottom, it says "done by DPW on March 10th", but there's no
19 DPW letterhead. This is no transmitted to the Board from DPW.

20 MR. GLASGOW: That's all I wanted to clarify.

21 CHAIRPERSON HINTON: You wanted to make that
22 clear for the record.

23 MR. GLASGOW: All right.

24 CHAIRPERSON HINTON: Sure.

25 MR. BOWSER: Could we get them to submit
26 something with their letterhead?

1 CHAIRPERSON HINTON: We'll see --

2 MR. BOWSER: I didn't know that was required.

3 CHAIRPERSON HINTON: Well, they know it's
4 required because they were asked to submit and they didn't.
5 If we don't decide today, we might leave the record open for
6 them to submit.

7 MR. GLASGOW: I have no further questions.

8 CHAIRPERSON HINTON: Okay.

9 Mr. Eshelman, do you have any questions? Okay.

10 The Office of Planning -- we have a party in
11 opposition so you are next.

12 Thank you. You gentlemen are done.

13 Actually, we just passed our 6:00 so I need to
14 make an assessment of time.

15 Mr. Eshelman, how long do you expect --

16 MR. ESHELMAN: Fairly short. Not an hour half-
17 an-hour, 20 minutes.

18 CHAIRPERSON HINTON: Twenty minutes?

19 MR. ESHELMAN: Fifteen minutes.

20 CHAIRPERSON HINTON: Fifteen minutes?

21 MR. ESHELMAN: Sure. I like 15. I like that.

22 CHAIRPERSON HINTON: I think 15 is fair, given
23 that the applicant had an hour. So, let's try to keep it 15
24 or shorter.

25 MS. RICHARDS: Could you also ascertain how many
26 individual persons, not parties, will be testifying?

1 CHAIRPERSON HINTON: How many persons, either in
2 support of opposition -- oh, wait a minute. Should
3 we have done persons in support first?

4 MS. RICHARDS: No, they come after.

5 MR. LYONS: No, they follow the ANC.

6 CHAIRPERSON HINTON: After parties, okay.

7 How many persons are going to want to testify?
8 One? No one else? If you're going to want to testify, raise
9 your hand? If you're going to want to talk to us, raise your
10 hand? One, two three, anybody else?

11 MS. RICHARDS: There's a fourth one there.
12 Could everyone raise their hands up high and keep them high?

13 CHAIRPERSON HINTON: Stand up if you want to
14 talk to us. Five, is that everybody? Okay, and we'll
15 probably limit that testimony to about two to three minutes
16 per person. So, we're looking at half-and-hour.

17 MS. RICHARDS: Okay.

18 CHAIRPERSON HINTON: Okay. Mr. Eshelman?

19 MR. ESHELMAN: Fair enough. Thank you, Madam
20 Chairman. I appreciate it.

21 CHAIRPERSON HINTON: Thank you.

22 MR. ESHELMAN: I think if there is anything that
23 characterizes this application here, it is that we have a
24 significant number of loose ends. I submit to you that the
25 number of loose ends would argue against any kind of a
26 definitive favorable resolution at this time on this

1 application.

2 Just to start out with, I would like to use as a
3 template, the concerns that the Institute of Our Lady of Mount
4 Carmel expressed in our correspondence to you on Monday.
5 Those were basically four. One was the necessity for
6 additional day care right here -- on our facility. Now, we've
7 heard a lot of good words here today about increasing
8 requirements for day care because of various legislation that
9 has been promulgated by the last Congress, regulations, et
10 cetera. I would submit --

11 CHAIRPERSON HINTON: Could you hold just a
12 minute?

13 We have a what?

14 MR. GLASGOW: Point of clarification, Madam
15 Chair. Is the attorney testifying as a witness, or is he
16 presenting a closing statement here?

17 MR. ESHELMAN: I'm just testifying.

18 MR. GLASGOW: No, no, no.

19 MR. ESHELMAN: On behalf of Our Lady of Mount
20 Carmel.

21 CHAIRPERSON HINTON: Okay. The attorney can not
22 testify. You can do sort of a summary statement in the
23 beginning but in order for the facts, you have to present --

24 MR. ESHELMAN: All right. Then I'll touch on it
25 and then I'll present the Superior here as a witness.

26 CHAIRPERSON HINTON: Witnesses, very good.

1 MR. ESHELMAN: Okay. I'm trying to truncate
2 this thing here for us.

3 We don't think that the best interest of the
4 community is going to be served by putting us out of business.
5 That's our concern. We've provided day care here for some
6 time and we've done it as a non-subsidized entity. We're a
7 community of mendicants which means we basically live on what
8 we beg and what's given to us. We receive no federal, state,
9 local, any other kind of money. And so, we have a concern
10 here that this is something that we've been doing and that
11 this is going to cause trouble for us in terms of our ability
12 to continue to provide this service to this community. Sister
13 Lelia will tell you about that.

14 The concern is that there's never been anything
15 shown to us that would demonstrate why this wouldn't be
16 detrimental to us. Also, we are concerned about the safety of
17 our children. We're concerned about the safety of our
18 children because of increased traffic, which is another issue
19 that we raised here. Traffic that's going to be increased by
20 a clinic which we have asked and we'll have testimony here to
21 indicate that we don't understand why there has to be a clinic
22 right here hard on one of the premier medical facilities in
23 the city. Why duplicate facilities and increase traffic in an
24 already congested area without some kind of an analysis of it?
25 And we haven't seen anything to indicate that there has been
26 such an analysis. We may be wrong about that, but I haven't

1 seen it and we haven't heard it here either.

2 Also, we're concerned about the fact that
3 because of the lack of definition in the way that this is
4 going to be approached, that they will not be able to complete
5 this project. Now, we have a vacant building that already,
6 we've had testimony, we've got rodent infestations in it.
7 It's a problem. It's a magnet for all kinds of vandalism, et
8 cetera, in the area. But if we get into it and we start
9 construction, and because there's a title problem which I
10 don't think has been cleared up on the record -- and
11 admittedly, it's not the job of this Board to decide that.
12 But if there is one and something happens and we start work
13 and we can't complete it, we're going to be left worse off
14 than when we began this exercise.

15 So, those are basically our concerns with the
16 thing. What I'll do now is, I would like to ask Mrs. Chestnut
17 to testify.

18 MRS. CHESTNUT: Hello, my name is Sheila
19 Chestnut. I am a parent of a child that attends the day care
20 that is presently there which is called Scrilli School.

21 I am concerned because in the summertime when
22 the kids are out on the playground, the parents park on the
23 service road which is the property of the Sisters. I feel
24 that the congestion of other parents that's going to pick up
25 their children is going to endanger the safety of the
26 children, the parents that come there. All types of

1 accidents are prone to happen at that location.

2 I am very concerned. I live in that community
3 and I don't see a need for another day care center. We have
4 one that services the neighborhood now. We also have on the
5 other side a day care. We have elementary schools in that
6 facility. I also want to point out to the Board that
7 basically, that community is senior citizens. There are not a
8 lot of little kids in that community. There are some. I'm
9 not saying there aren't any, but that area doesn't need that
10 many day care facilities.

11 They have schools -- they have Bunker Hill
12 Elementary School, you can send your child int here when
13 they're four. You have other schools around that area that
14 also allow kids to come in early. I believe it's Brookland
15 Elementary School. They have a program there. So, I don't
16 see a need for another one and my concern is the safety for my
17 child and the safety for the community.

18 I witnessed an accident there the other day.
19 The lady had a seizure. Traffic could not get past -- they
20 couldn't even get to Eighth and Varnum Street because the fire
21 truck was right there. The traffic had to turn around, detour
22 and go through Carroll Manor to get to the building they
23 needed to get there. So, if the accident is there, people can
24 not get to their destination. I know for a fact because I
25 have someone at Carroll Manor. I use Eighth Street to get to
26 Carroll Manor. I don't use Providence Hospital parking lot to

1 get to Carroll Manor. The majority of people going to Carroll
2 Manor use Eighth Street.

3 CHAIRPERSON HINTON: Okay, thank you.

4 Do you have other witnesses? Any witnesses,
5 could they come up to the table? Is this the only other one?

6 SISTER SARAFINA: My name is Sister Sarafina. I
7 am a member of the Institute of Our Lady of Mount Carmel.

8 MR. ESHELMAN: What is your position at the
9 Institute, Sister?

10 SISTER SARAFINA: Sir?

11 MR. ESHELMAN: What is your position?

12 SISTER SARAFINA: I opened the school, okay?
13 So, we are very concerned about what they want to do. We see
14 many problems for the future. We are concerned for our safety
15 of our children and our parents because there will be a lot of
16 traffic and a lot of accidents. We worry about it so much.
17 We can not -- we can not be responsible for the damage can be
18 to the people to the neighborhood, to our children and to our
19 parents.

20 So, we oppose this private school and the child
21 development -- what they want to do.

22 MR. ESHELMAN: What about building a child
23 development center next to your child day care center. What
24 is your view on that, having the child care center right next
25 door to your --

26 SISTER SARAFINA: Against.

1 MR. ESHELMAN: Why?

2 SISTER SARAFINA: Because we don't work for
3 business. We work just to live. We have not profit above
4 anything from the school. We just work all day long. We do
5 good to the children and we help their parents -- some
6 problems. We love the children. We do our best. All the
7 sisters work in their own best ability. We feel we would be
8 destroyed. We feel we will lose everything -- other -- to
9 leave. That's my feeling.

10 MR. ESHELMAN: Has anyone ever told you or shown
11 you that there is a need for more day care than you're able to
12 provide?

13 SISTER SARAFINA: No.

14 MR. ESHELMAN: How long is your waiting list at
15 the Scrilli School?

16 SISTER SARAFINA: We don't have a waiting list
17 because we have enough children according to the permit -- so
18 we don't keep people on a waiting list.

19 MR. ESHELMAN: Are you subsidized by a state
20 government?

21 SISTER SARAFINA: Nothing.

22 MR. ESHELMAN: By a private foundation?

23 SISTER SARAFINA: No, nothing.

24 MR. ESHELMAN: By the federal government?

25 SISTER SARAFINA: No, not one penny. Nothing at
26 all. Nothing.

1 MR. ESHELMAN: When a child is ill at your
2 center, where do you take the child for medical care?

3 SISTER SARAFINA: We have permission from the
4 parents -- they give us permission -- first of all, we call
5 them right away, the parents. If it is an emergency, we call
6 Providence Hospital.

7 MR. ESHELMAN: Okay.

8 SISTER SARAFINA: You know, we can walk there.

9 MR. ESHELMAN: Has there ever been an instance
10 or a time when Providence Hospital was unable to handle
11 whatever the problem was that arose with the child?

12 SISTER SARAFINA: No. No.

13 MR. ESHELMAN: That's all. Thank you, Sister.

14 SISTER SARAFINA: Okay, thank you.

15 CHAIRPERSON HINTON: We have a couple of
16 questions. I have two questions. What age children does your
17 community serve?

18 SISTER SARAFINA: I can not hear her.

19 The age from 2½ up to 5.

20 CHAIRPERSON HINTON: You have an outside play
21 area for children?

22 SISTER SARAFINA: Yes, we have a playground,
23 lots of space, yes.

24 CHAIRPERSON HINTON: When your children are
25 outside, does the staff watch them and make sure that they
26 don't run out into the street or get lost?

1 SISTER SARAFINA: Oh, yes. All the sisters --
2 there's a fence all around the playground and always there are
3 four or five sisters watching the children. Oh, yes.

4 CHAIRPERSON HINTON: Okay. So, a child
5 development center on the property next to you, how would that
6 endanger the safety of those children?

7 MR. ESHELMAN: Her concern is the increased
8 population next door. How would the child day care center
9 effect the safety of your children?

10 SISTER SARAFINA: We don't know what's
11 happening. We don't know. They don't have any space at all
12 for the children to play outside, no space. I know the
13 children must have certain space even outside on the
14 playground. It's a children law. Wherever you go, they will
15 set the space for each child. Where do they put all these
16 children outside? I don't understand that. I think all the
17 time, where?

18 MR. ESHELMAN: You mean anywhere on the lot?

19 SISTER SARAFINA: No, the --

20 CHAIRPERSON HINTON: Well, my question is, how
21 will that endanger the safety of the children that you care
22 for?

23 SISTER SARAFINA: Specifically, it is because of
24 too much traffic. We have a road there. They want to make
25 the parking, it's impossible. First of all, it is our
26 property and they can not cut through our property.

1 CHAIRPERSON HINTON: So, it's the safety of the
2 children when they're coming and going from your facility, but
3 not while they're under your care?

4 MR. ESHELMAN: She says the safety when they're
5 coming and going, not while they are on the facility.

6 SISTER SARAFINA: Yes, right. Yes.

7 MR. ESHELMAN: That's correct, Madam Chair.

8 CHAIRPERSON HINTON: Ms. Reid, did you have a
9 question?

10 MS. REID: Yes. I'd like to know how close
11 exactly is your school to the proposed school of the
12 applicant? What is the proximity?

13 MR. ESHELMAN: She needs to know what's the
14 distance between Brady Hall and our school?

15 SISTER SARAFINA: Well, I never measured it, but
16 it's not much.

17 MS. REID: Approximately?

18 SISTER SARAFINA: Twenty feet. Twenty feet,
19 about.

20 MS. REID: Twenty feet.

21 SISTER SARAFINA: It's not much.

22 MS. REID: Also, what is the name of your
23 school?

24 MR. ESHELMAN: The name of the school?

25 SISTER SARAFINA: Scilli School.

26 CHAIRPERSON HINTON: You can't testify from the

1 audience, please.

2 SISTER SARAFINA: It's called Scrilli School.

3 Scrilli is the name of our foundress.

4 MS. REID: Scrilli School?

5 MR. ESHELMAN: Scrilli.

6 MS. REID: Okay, is your school --

7 SISTER SARAFINA: S-C-R-I-L-L-I.

8 MS. REID: Okay. Is your school a day care
9 center or is it a child development center?

10 SISTER SARAFINA: It is a private.

11 MR. ESHELMAN: Is it a day care center or a
12 child development center or both?

13 SISTER SARAFINA: It's a day care. The teacher
14 teaches the children.

15 MR. ESHELMAN: What does the teacher teach?

16 CHAIRPERSON HINTON: Okay, either you know or
17 you don't know.

18 MR. ESHELMAN: She knows. She's just having
19 trouble understanding. My Italian is not real good.

20 What do you do at the day care center? Tell
21 them what you do there.

22 SISTER SARAFINA: Well, I am not a teacher. I -
23 - but Sister Freda is a good teacher, okay. She can answer
24 all the programs she has, all right?

25 CHAIRPERSON HINTON: Okay.

26 MS. REID: My last question is in regard to your

1 day care center, is it a Catholic day care center? So the
2 instruction and everything is oriented toward the Catholic
3 religion or not? The reason why I'm asking is because I know
4 that some people like to send their children to Catholic
5 schools for the education that they receive there. I'm just
6 trying to draw the difference between your school and what the
7 applicant is going to be doing. There's a difference in the
8 type of education that one obtains from the Catholic school
9 than from one who's non-religion.

10 MR. ESHELMAN: I understand.

11 Ms. Reid, I'll present Sister Freda who will
12 describe for the Board in more detail, what it is exactly that
13 they do since she runs that program, the educational aspect of
14 it which goes more to your question.

15 I presented Sister Sarafina here because (a) her
16 English is better and she's like the number two in the
17 organization there. If you have no other questions for her,
18 I'll present Sister --

19 MS. REID: Well, just basically not to prolong
20 this, I was trying to get an idea as to the difference in the
21 two schools and the apparent threat that Sister has for this
22 new day care center to see if whether or not the children who
23 come to her would still come to her because of who she is and
24 whether or not that would make any difference as far as the
25 day care center that is being proposed. It would be the type
26 of people who may --

1 MR. ESHELMAN: Different.

2 MS. REID: -- different, who may not want to
3 necessarily go to a Catholic school. That's basically what I
4 was asking. As far as the education is concerned, I mean,
5 other than the fact that it's a Catholic school, I am sure
6 that the curriculum and a program where the children are
7 learning and developing. Even though it's called a day care,
8 I was just informed by the Chairwoman that day care and child
9 development are one in the same. Wherein, to some people day
10 care means simply where a child is being taken care of, a more
11 sophisticated babysitting service, and child development is a
12 more sophisticated program, a curriculum where the children
13 are actually engaged in learning activities throughout the
14 day. Or a combination of learning and recreational or
15 physical activities during the day.

16 I'm clear now, so we can just move on to the
17 next.

18 SISTER SARAFINA: They have a program. They
19 have music activity. They have a art. They teach them to
20 write their name. Not -- babysitting, no. We are not, no.
21 The sisters don't do that.

22 MS. REID: Thank you. I thank you for
23 clarifying that for me.

24 CHAIRPERSON HINTON: Okay.

25 MS. RICHARDS: I have one quick question. In
26 view of your competition testimony, what's the fee to attend

1 your school? How much does it cost?

2 SISTER SARAFINA: How much do they pay, the

3 tuition?

4 MR. ESHELMAN: Yes, how much tuition?

5 SISTER SARAFINA: Very minimum.

6 MR. ESHELMAN: How much is that?

7 SISTER SARAFINA: \$208.00 a month.

8 MS. RICHARDS: \$208.00 or \$280.00?

9 SISTER SARAFINA: Month.

10 MR. ESHELMAN: \$208.00.

11 MS. RICHARDS: \$208.00 a month?

12 MR. ESHELMAN: \$280.00. \$280.00.

13 MS. RICHARDS: \$280.00, what, per month, per

14 child?

15 MR. ESHELMAN: Correct.

16 MS. RICHARDS: Thank you.

17 Do most of your children come from the immediate

18 neighborhood?

19 MR. ESHELMAN: Where do they come from? Are

20 they from the neighborhood?

21 SISTER SARAFINA: They come all over the place.

22 It's a different.

23 MS. RICHARDS: All over the city?

24 SISTER SARAFINA: Near and far, you know.

25 MS. RICHARDS: From all over the --

26 SISTER SARAFINA: Mostly some of them because

1 their parents work in the hospital and they bring the children
2 to us.

3 MS. RICHARDS: All right. So, you're not
4 drawing solely from Ward 5?

5 SISTER SARAFINA: Yes. We have them from all
6 over the place.

7 MS. RICHARDS: Thank you.

8 SISTER SARAFINA: You're welcome.

9 MR. FRANKLIN: I have a question. Do you know
10 what the tuition will be at the proposed school?

11 MR. ESHELMAN: Do we know what the tuition will
12 be at the proposed school? The one they want to put in Brady
13 Hall.

14 SISTER SARAFINA: I don't know.

15 MR. ESHELMAN: No.

16 SISTER SARAFINA: I don't know.

17 MR. FRANKLIN: So, how can you come to a
18 conclusion that will undercut your population? First of all,
19 I'm not sure that this Board looks at competitive situations.
20 Our regulations don't tell us that we should construe
21 something that was competitive as necessarily an adverse
22 impact.

23 But for the moment, putting that aside, your
24 position, Mr. Eshelman, is that one of the reasons we should
25 turn down this application is that it has a competitive
26 adverse impact on the Scrilli School. I'm asking now how you

1 can come to that conclusion without doing an analysis of what
2 the comparative tuition is, among other things?

3 MR. ESHELMAN: Subsidy. Subsidy.

4 MR. FRANKLIN: Well, what is the comparative
5 tuition?

6 MR. ESHELMAN: Just the bare fact, Mr. Franklin,
7 of subsidy, bearing no relationship to the market.

8 At this point I think, really, from our
9 standpoint it depends on what the status is going to be of the
10 programs that the day care center in Brady Hall is going to be
11 participating in.

12 MR. FRANKLIN: Well, the Scrilli School is not
13 market driven. We were just told that a few minutes ago.

14 MR. ESHELMAN: That's correct. That's correct.

15 MR. FRANKLIN: And you're saying that the other
16 school is not market driven.

17 MR. ESHELMAN: That's correct.

18 MR. FRANKLIN: So, aren't they the same?

19 MR. ESHELMAN: But they can operate below cost
20 because they have sources of funds other than their students.

21 MR. FRANKLIN: Well, what are the costs at the
22 Scrilli School in terms of -- are the salaries paid to the
23 sisters at all comparable to what would be paid in another
24 school?

25 MR. ESHELMAN: \$15.00, \$20.00 a month, food, and
26 housing, I think.

1 MR. FRANKLIN: That doesn't sound to me like
2 it's market driven.

3 MR. ESHELMAN: It's very austere.

4 MR. FRANKLIN: It's very austere, right.

5 MR. ESHELMAN: Yes.

6 MR. FRANKLIN: So, if possible -- I'm just
7 speculating --

8 MR. ESHELMAN: I understand.

9 MR. FRANKLIN: -- on the basis of the facts
10 before us, we're dealing with two institutions that are both
11 not market driven.

12 MR. ESHELMAN: Yes, but with a mandate -- well,
13 there's been a lot of language about we want to increase day
14 care availability, quality day care. There's a big need and
15 so forth.

16 MR. FRANKLIN: Sure.

17 MR. ESHELMAN: I'm merely putting this out as a
18 concern, not necessarily an objection. But as a concern
19 because the effect of this may very well be to cause a
20 reduction in day care to the extent of the children that we
21 service on account of the fact that we are not subsidized,
22 we're operating literally on a shoe string and hand-to-mouth,
23 without any government to back us up or any federal programs,
24 or any endowments of any sort.

25 MR. FRANKLIN: I understand.

26 MR. ESHELMAN: That's really our only concern,

1 not --

2 MR. FRANKLIN: But the tuition that is charged
3 is probably -- I don't know anything about the level of
4 tuitions in this field. I'm beyond that stage. But it seems
5 to me that level of tuition is not comparable to what a market
6 driven or profit oriented child development --

7 MR. ESHELMAN: That's correct.

8 MR. FRANKLIN: -- center would charge. There
9 are a lot of child development centers that are related to
10 government agencies. In fact, when I think of it, they charge
11 a great deal more than \$280.00 a month.

12 MR. ESHELMAN: More like \$200.00 a week.

13 MR. FRANKLIN: Yes.

14 MR. ESHELMAN: But that's just our concern.

15 CHAIRPERSON HINTON: Okay. Where are we?

16 MR. ESHELMAN: Okay, Sister Freda.

17 CHAIRPERSON HINTON: Well, I think we've covered
18 that. We've been satisfied.

19 MR. ESHELMAN: Okay. Okay.

20 Then I think we're pretty much complete.

21 CHAIRPERSON HINTON: Okay.

22 MR. ESHELMAN: So, cross examination.

23 CHAIRPERSON HINTON: Yes.

24 Does the applicant have cross examination?

25 MR. GLASGOW: No cross. I think we can cover
26 the point in the closing argument.

1 CHAIRPERSON HINTON: Very good.

2 Mr. Parks, any cross?

3 MR. PARKS: No, I have a statement.

4 CHAIRPERSON HINTON: Okay, no statement.

5 We are going to move on to persons in support.

6 We're done with this party.

7 Persons in support. Everyone who thinks this is
8 a great idea come up to the table.

9 MS. RICHARDS: There was a young mother who was
10 here. Has she left?

11 PARTICIPANT: She had to leave.

12 MS. RICHARDS: All right.

13 CHAIRPERSON HINTON: Your name and home address
14 for the record, and then please give your testimony.

15 MR. COOK: My name is Edward F. Cook. I'm the
16 senior vice president at Providence Hospital. My home address
17 is 274 Thorbridge Court, Severna Park, Maryland.

18 My statement starts good afternoon, but we'll
19 start it good evening. Members of the Board of Zoning
20 Adjustment, as the senior vice president of Providence
21 Hospital and DePaul Foundation, we are the current owners of
22 the subject property known as Brady Hall. We have advertised
23 the sale of this property for approximately the last six years
24 with the hope of attracting a use for the site which would be
25 capable of renovating this handsome building as well as being
26 compatible with the land use in the area.

1 The marketing of this property has been
2 complicated given the size of the building, the physical
3 condition of the property and the restrictive nature of the R-
4 5-A zoning. As stated previously, the building has been
5 vacant for many years and requires a significant economic
6 investment simply to make it usable. All of the building
7 systems are dysfunctional and will have to be completely
8 upgraded. Despite the best efforts of Providence and DePaul
9 Foundation to secure the building, it has been vandalized and
10 does not presently contribute anything positively to the
11 community's image.

12 When the National Child Day Care Association
13 approached us and was identified as a potential purchaser of
14 the property, we at Providence and the Foundation felt
15 strongly that the proposed use would be an excellent fit, not
16 only for the building but for the community as well. The
17 Brady Hall site is located on the fringe of a residential
18 community adjacent to several institutional uses, including
19 the Association for Retarded Citizens, Carroll Manor Nursing
20 Home which is owned by Providence, the Vincent Professional
21 Building, and the Carmelites Day Care Center. All of these
22 uses are tucked away in a quiet park-like enclave accessed by
23 this private roadway we've heard so much about.

24 The use of Brady Hall site by the National Child
25 Day Care Association as a child development center and a
26 private school for parents will be consistent with the

1 institutional uses of other area properties. As explained in
2 the BZA application itself, National Child Day Care
3 Association has a long and distinguished history of providing
4 comprehensive services for families. Providence Hospital
5 experiences on a daily basis the social, economic and health
6 care challenges that impact families in today's society.
7 Clearly, National Child Day Care is in the business of helping
8 to strengthen families, particularly those families who are
9 most at risk and who are, perhaps, for the first time in their
10 lives, taking steps towards a life without welfare.

11 The Advisory Neighborhood Commission has
12 expressed its concern that the proposed child development
13 center and private school will upset the sanctity of the
14 neighborhood. To these concerns I would point out that
15 Providence Hospital's admissions policies do not discriminate
16 against patients from outside Ward 5. We receive and treat
17 daily persons from all walks of life and from all of the
18 city's wards.

19 The ANC has also expressed their desire that we
20 raze the existing structure and convert this lot to a public
21 park. Unfortunately, due to the outstanding mortgage of
22 approximately \$450,000 on the property, this would not seem to
23 be a prudent use of hospital funds. With the advent of
24 Welfare Reform, it has become apparent that we all,
25 irrespective of political boundaries, must find creative
26 solutions to the problems which have permeated our families.

1 One item that's not on my presentation, but
2 there is some question that was raised was clinic space in the
3 building. I know from another source that basically, the
4 clinic space that the National Child Day Care Association is
5 proposing, they are actually negotiating with physicians, the
6 Gerald Family Practice Group that's in one of our buildings at
7 Providence, who is looking for different space than we have
8 available. They are talking to them. We have no more spaces
9 available in our clinic buildings, so that is why Dr. Gerald
10 and his group is looking elsewhere for space.

11 In closing, I would just like to urge the Board
12 to approve the National Child Day Care application as I feel
13 it meets the special exception criteria. Thank you for your
14 time and consideration. I'll gladly answer any questions.

15 CHAIRPERSON HINTON: Thank you.

16 Are there any questions, Board members?

17 MS. RICHARDS: Just one -- well, two, I guess.
18 How long have you had the building?

19 MR. COOK: We have had it on the market for
20 about six years. I don't know how long we've actually owned
21 it to be perfectly honest with you. Probably eight or nine,
22 maybe even longer.

23 MS. RICHARDS: Probably what? I didn't hear
24 you.

25 MR. COOK: Eight or nine. It might be longer.
26 I'm not 100 percent sure.

1 MS. RICHARDS: What had you expected to do with
2 it when you acquired it?

3 MR. COOK: I believe -- and there may be some
4 people in the room better to answer it than I. I believe we
5 used it for housing for some priests or some seminarians at
6 some point. To be quite honest with you, when it was
7 originally purchased and the way the titles -- I don't know
8 what was in anybody's mind at that given point.

9 MS. RICHARDS: Thank you.

10 CHAIRPERSON HINTON: Mr. Franklin, did you have
11 a question?

12 MR. FRANKLIN: No. The clinic use is a matter
13 of right use, is that correct?

14 CHAIRPERSON HINTON: Great. Okay.

15 Questions from the applicant? No.

16 Do we do cross of witnesses? Do we? No. Never
17 mind.

18 Thank you.

19 Anyone else in support? Seeing none.

20 Persons in opposition? I think there were three
21 or four of you. Anyone that wants to speak in opposition can
22 come up to the table. Is there anyone else? I see one person
23 standing. Anybody else? Nobody else. Okay.

24 MR. RANDOLPH: Good evening.

25 CHAIRPERSON HINTON: We need your name and home
26 address for the record.

1 MR. RANDOLPH: My name is Alphonso Randolph. I
2 live at 4312 Tenth Street, N.E., Washington, DC.

3 Okay, I've been living at 4312 Tenth Street for
4 27 years. I have seen the neighborhood, you know, come and
5 go. As far as back on Varnum Street where you're talking
6 about this Brady House, this building has been, I'd say vacant
7 for 20 years. So, for 20 years now, the kids used to go back
8 there. Catholic University used to have a -- back there.
9 Galludet used to have something in that building. So, that's
10 what I'm trying to say. But the building has been vacant for
11 20 years.

12 All of a sudden, I can understand Providence
13 wanting to sell this. Sure, they'll sell it to anybody,
14 understand? But I don't see no point in selling -- I don't
15 have anything against child care, not at all. We've got about
16 three or four child care in that neighborhood, Ward 5. We've
17 got enough, as far as that's concerned.

18 As far as this building, we don't need another
19 child care back there. As far as the traffic that will occur
20 back there. I can stand on my porch and watch Tenth and
21 Varnum. Now we've got Police and Firemen Clinic is coming up
22 in four months. So, that's why I oppose it.

23 Any questions?

24 CHAIRPERSON HINTON: Thank you.

25 Any questions from the Board? No. Okay, very
26 good.

1 Anyone else in opposition? Is there anyone else
2 in opposition? Okay, this is the last person then. If
3 there's anyone else, stand up now. Okay, this is the last
4 person.

5 We need your name and home address for the
6 record.

7 MR. PRINCE: My name is Lonnie Prince. I live
8 at 1005 Urell Place, N.E.

9 Some of my objections have been spoken, but I'd
10 like to amplify them a bit. My concerns are the parking,
11 traffic, foot traffic. What benefit is it for me? I get
12 nothing out of it. What does it improve? I don't see any
13 improvement. It's all negative. I don't see anything
14 positive about it at all.

15 There are day care centers, Tenth Street,
16 Twelfth Street, Michigan Avenue, all over in that area. Most
17 of the people on my block are retired people and don't have
18 any children. It's inconvenience. I live in a detached home
19 right in front of a dwelling for severely handicapped people.
20 The parking is terrible. We have residential parking. It's
21 not enforced. I can understand why because of the lack of
22 funds, or whatever it is. If I order groceries, I want to
23 wash my car, I have to wait until the people leave to go out
24 and do those sort of things. We have two automobiles. It's
25 really inconvenient. It's not going to help me at all and I
26 don't think it will help anyone in the community, personally.

1 That's all I have to say.

2 CHAIRPERSON HINTON: Thank you.

3 Any questions?

4 We are at closing remarks.

5 MR. GLASGOW: Very briefly. I only want to
6 cover about three points.

7 First of all, with respect to the access and to
8 the issues raised by the Scrilli School, off of Varnum Street,
9 N.E., the access to the Scrilli School lot is off of this
10 portion of Varnum Street. This asphalt driveway that leads
11 up to the Scrilli School building to the rear of the building
12 which is where the play area is and where the drop-off area is
13 for that facility. That is pursuant to conditions of BZA
14 Order Number 15286, which is the application that approved the
15 Institute of Our Lady of Mount Carmel Child Development Center
16 for 65 persons.

17 So, I will enter that order into the record so
18 that prima facie, by virtue of that order, there is no safety
19 traffic conflict with respect to that facility. Their pick-up
20 and drop-off point is at the rear of their building. Their
21 play area is at the rear of their building. We have no access
22 over that point. There was testimony from Mr. Bryant with
23 respect to the fence that's been constructed here, and our
24 play area is in here. So, unless there's a violation of the
25 BZA order, there's no conflict.

26 Next, with respect to the business competition

1 issue which was touched on by Commissioner Franklin. I had a
2 citation for the record that business competition -- this is a
3 cite from a 401 NE 2nd 634. The case was decided in 1980,
4 Jesse v. City of Taylorville, at page 634, the opinion:
5 "Zoning, however, can not be used to protect the economic
6 interests of existing businesses without the express
7 delegation of such power to the municipality." That's pretty
8 much general Hornbook law on that issue. And so, I'd give
9 that citation to the record.

10 Lastly, with respect to the use and the
11 appropriateness of the use, we do have the comprehensive plan
12 land use map. Certainly, we're going to be relying on that
13 issue. If you're going to have these type of facilities, they
14 are permitted by special exception in the R-5-A zone, but more
15 particularly, where you have a situation where there's a
16 designation of institutional use on the land use map for this
17 type of use. I mean, we can understand where anywhere we want
18 to put this type of use, there may be extreme concern on
19 behalf of the local community. Then the question is, where do
20 you put these type of facilities?

21 We believe that this is an a very appropriate
22 location and one of the better locations that could be found,
23 given the size of the site and where it is that we can put the
24 children's play area; the access off of a private road.
25 There's no queuing on any public street. It's all on a
26 private drive that we have where there would be any queuing.

1 The amount of parking that we can provide, the open space and
2 the size of the building. There are very, very few locations
3 such as this and it will permit us to put back a building that
4 has been admitted by everybody, to be derelict in the
5 community for some lengthy period of time. We can put it back
6 to usable service.

7 For the rest, we would rely on the testimony of
8 the witnesses that we have and the statement that we have in
9 the record. With that, that concludes the applicant's
10 presentation and closing argument.

11 CHAIRPERSON HINTON: Okay. We've concluded the
12 case.

13 I've made some notes of things I think ought to
14 be submitted to the record. So, I would prefer not to make a
15 decision at this point, but to hold it over until one of our
16 decisional meetings.

17 Ms. Richards, why don't you go first.

18 MS. RICHARDS: All right.

19 I'd like some additional information on the uses
20 that have been designated as part of the child development
21 center but don't really deal solely with this particular group
22 of kids.

23 I'd like a breakdown of space showing the amount
24 of actual, like space being devoted to the central kitchen
25 uses because I see that your documents indicate that you have
26 like formal contracts with other entities in addition to

1 serving your various facilities. That's sort of like a
2 commercial adjunct to your overall operation. That's like
3 you've got a commercial kitchen subsidiary to your chain of
4 like child development centers. So, I would like to see the
5 amount of space actually allocated to the kitchen space and
6 the office space.

7 Also, you're planning to consolidate your
8 central administrative offices, so I'd like to see a space
9 breakdown. You know, not just square footage but on some kind
10 of drawing -- and it doesn't have to be a formal drawing --
11 showing how much of it is going to be central administration
12 as opposed to, we'll say, you know, the school director's
13 office associated with this particular group of 100 children.

14 That's it for me.

15 CHAIRPERSON HINTON: Okay. In addition to that
16 -- and maybe it's the same thing -- I would like to see a
17 floor plan of the building. I'm assuming this whole process
18 started when you applied for some kind of permit?

19 MR. GLASGOW: We applied for a certificate of
20 occupancy. For an existing building, you don't have to have
21 plans. You can apply with a CFO and get a denial of a CFO.

22 CHAIRPERSON HINTON: Okay. And I understand
23 that there needed to be a number of renovations to the
24 building before you could occupy it?

25 MR. GLASGOW: Yes, that is true.

26 CHAIRPERSON HINTON: So, can we see floor plans

1 for the renovations?

2 MR. GLASGOW: Yes, yes. Whatever plans we have,
3 we'll get in.

4 CHAIRPERSON HINTON: Okay. As Ms. Richards
5 said, it would be helpful if you could show the spaces
6 allocated to the different uses.

7 Ms. Bailey talked about a plan that I thought
8 was a very, very good idea, and that is a plan that shows all
9 the institutional uses in the area. Some of this is shown on
10 different maps.

11 MR. GLASGOW: Yes.

12 CHAIRPERSON HINTON: But if you could do one
13 plan that shows Carroll Manor, Providence Hospital, where the
14 new fire station will be and all the streets that we've talked
15 about so it's easy for us to see, you know, on one sheet. It
16 may have to be bigger than 8½ by 11, but so we can see all
17 these uses and how they might be related. It would also help
18 if we could see the building where the Carmelite Child
19 Development Center is so that we can see how far apart those
20 are.

21 We apparently have asked DPW for a report and
22 haven't received that yet, so we will leave the record open
23 for DPW to submit a report if they can do that within the time
24 frame that these other things are going to be received.

25 Mr. Franklin or Ms. Reid, do you have any other

26 --

1 MR. FRANKLIN: I just have one minor thing and
2 that was, I think it would be useful to know how
3 administratively, you could control the parking so that the
4 turnaround area at the drop-off does not result in a queuing
5 condition that will spill over into Varnum Street.

6 CHAIRPERSON HINTON: Okay. Ms. Reid?

7 MS. REID: Yes. Mr. Morris had stated that he
8 would submit to us a revised traffic plan to take into
9 consideration some of the discussion that occurred today --
10 some testimony that occurred today.

11 CHAIRPERSON HINTON: Right, and that would
12 substantiate some of the assumptions that are in the report.
13 Where the 50 vehicles came from, the peak hour for this
14 facility compared to the peak hour for the adjacent
15 intersection; those sorts of things. I think it's clear in
16 the record what we're looking for in that.

17 Ms. Richards?

18 MS. RICHARDS: I've got one other thing. We've
19 spoken of a clinic, but the file makes references to two
20 separate clinics: the comprehensive health care program, an
21 on-site pediatric/family practice clinic which will provide
22 health care services to uninsured children. Then there's a
23 separate reference to a private family practice, a clinic
24 operated by a private physician group. If there could be some
25 explanation of these two things and how they work together or
26 don't work together. And if you're planning to

1 provide health care services to children, this just refers
2 generally to uninsured children. There was testimony that the
3 only services provided would be to those of the children and
4 their parents who were enrolled at this particular site. If
5 there is any incompleteness in that representation, could we
6 have any additional information on that point we need?

7 MR. GLASGOW: Okay.

8 CHAIRPERSON HINTON: The central offices, which
9 use are you looking at those under? Are the central offices
10 considered part of the day care?

11 MR. GLASGOW: Both. It's ancillary to both.

12 CHAIRPERSON HINTON: Okay. And you're going to
13 give us a space breakdown of how --

14 MR. GLASGOW: Yes. Yes.

15 CHAIRPERSON HINTON: -- much space is --

16 Anything else? I think that about wraps it up.

17 Mr. Lyons, let's talk about time.

18 MR. LYONS: With the information that the Board
19 is requesting, I believe the Board is looking at a May
20 decision.

21 CHAIRPERSON HINTON: I think that's reasonable.

22 MR. LYONS: Yes.

23 MS. REID: Mr. Lyons?

24 MR. LYONS: Yes?

25 MS. REID: Different ones are saying that they
26 can't hear you. Could you please speak a little louder?

1 MR. LYONS: Oh, sure.

2 The items that the Board has requested to be
3 submitted to the record should be filed by April 16th with
4 service on the other parties. That would include the report
5 of the Department of Public Works.

6 CHAIRPERSON HINTON: If it's available.

7 MR. LYONS: If it's available.

8 Responses to the submissions made on the 16th
9 and proposed findings that any party wishes to submit will be
10 due by April 30th. The Board at its May 7th meeting will
11 consider a decision in the application.

12 CHAIRPERSON HINTON: We're adjourned.

13 Thanks, everybody, for hanging in there.

14 (Whereupon, the hearing was adjourned at 7:01
15 p.m.)

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